

SUBMITTED FOR REVIEW

MAY 01 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JUN 1 1987

Office of Administrative Law

For use of Office of Adm Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

STATE DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

John S. McHugh

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 4-30-87

RDB #0786-31

FILED

In the office of the Secretary of State
of the State of California

JUN 02 1987

At 4:46 o'clock 1 P.M.
MARCH FONG EU, Secretary of State
By *John S. McHugh*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE	TELEPHONE
Rosalie Clark, Chief, Regulations Development Bureau 445-0313		
2. Type of filing, (check one)	<input checked="" type="checkbox"/> 30-day Review	<input type="checkbox"/> Emergency
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)		
<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction		
3. a. Specify California Administrative Code title and sections as follows:		
Title <u>MPP</u>	SECTIONS ADOPTED: (See attached page)	SECTIONS AMENDED:
SECTIONS REPEALED:		
APPROVED		
b. The following sections listed in 3a contain modifications to the text originally made available to the public:		
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)		
<input type="checkbox"/> prior to the emergency adoption		
<input type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.		
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL:	
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL	
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)		
<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp)		<input type="checkbox"/> Building Standards Commission (Attach approval)
<input type="checkbox"/> State Fire Marshall (Attach approval)		<input type="checkbox"/> Department of Finance (Attach properly signed Std. 399)
Other _____ (SPECIFY AGENCY)		
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER November 28, 1986	b. DATE OF FINAL AGENCY ACTION MAY 1 1987	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) April 9, 1987 - April 24, 1987

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- Effective 30th day after filing with the Secretary of State.
- Effective upon filing with the Secretary of State.
- Effective on _____ as required or allowed by the following statute(s): _____.
- Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- Effective on JUL 1 1987 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.

Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.

Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)

b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).

Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).

Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.

Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).

b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).

c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.

Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

b. Provide the date on which the regulatory agency adopted the regulatory changes.

c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.

Part 9. Effective Dates — check one of the following:

a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.

b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.

c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citation(s).

d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.

e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

ATTACHMENT TO FACE SHEET

Sections Adopted: 19-002.1 (title), 19-002, et seq.; 20006, et seq.; 40-107.72, .721; 40-115.225; 40-131.3(n); 40-181.123, .4, et seq.; 63-061, et seq.; 63-102i.(2); 63-201.316; 63-300.22, .59, et seq.; 63-404.11, .34, .511, .53.

Sections Amended: 20-006.23, .24, and .3, et seq.; 20-007.36; 40-103; 40-107.71, .713, .714, .73; 40-115.22; 40-131.3(o), (p); 40-157.22; 63-102i.(3) through (7); 63-201.34; 63-300.23, .24, .542, .544, .55; 63-301.541(c); 63-404.1, .12, .2, .21, .31, .32, .33, .41, .42, .51, .52, .6, .61, .62, .621, .63, .64, and .7; 63-503.442.

⁵
Sections Repealed: 20-006.23, .24, .25, and .251; 63-404.211, .212, and .213; 63-504.615(c).

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

The proposed regulations will implement provisions of the Deficit Reduction Act of 1984 which require state agencies administering the Food Stamp, AFDC, Medicaid, and Unemployment Compensation programs to establish an Income and Eligibility Verification System (IEVS). This system will access state wage information; SSA information about income and benefits; and IRS information about unearned income. Data received from these sources will be used to verify reported information and to determine the eligibility and benefit level for the AFDC, Refugee Cash Assistance (RCA), Refugee Demonstration Project (RDP), Food Stamp, and Medi-Cal Programs. The SDSS proposed regulations will be implemented in Division 20, Section 20-006 (new) with cross-references in Divisions 19, 40, and 63. The cross-references along with some specific program regulation changes will be primarily with MPP Chapter 40-100 (application processing, social security numbers (SSNs) and continuing eligibility), MPP Chapter 63-300 (application processing and verification) and MPP Chapter 63-404 (SSNs), and MPP Chapter 19-002 (tax return information).

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 19-002.21

Specific Purpose:

The purpose of this section is to define the specific information received from the Internal Revenue Service (IRS) which must be safeguarded to protect taxpayer confidentiality.

Factual Basis:

This regulation is necessary in order to comply with IRS Code Sections 6103(b)(2) and 7431.

Section 19-002.22

Specific Purpose:

The purpose of this section is to identify those county employees having access to tax information who are prohibited from disclosing confidential taxpayer information. This section has been revised for clarity based on testimony from Santa Clara County.

Factual Basis:

This regulation is necessary in order to comply with IRS Code Sections 6103(a) and (b).

Section 19-002.23

Specific Purpose:

This section specifies the basic safeguard guidelines that counties must follow in order to protect the confidentiality of tax information.

Factual Basis:

These regulations are necessary in order to comply with IRS Code Section 6103(p)(4).

Section 20-005.2

Specific Purpose:

Sections 20-005.23, .24, and .25 have been repealed and Section 20-005.26 and .27 have been renumbered for consistency. Renumbered Section 20-005.23 has been amended in order to correct the form number upon which the county must report to the Department.

Factual Basis:

Renumbering is necessary for consistency in the regulations. Form series DBP 266 are no longer used by the counties for reporting to the Department and the regulations have been amended to reflect the correct form number.

Section 20-005.3

Specific Purpose:

This section is being renumbered from Section 20-006 to 20-005.3 to be consistent with the previous section which is 20-005.2.

Factual Basis:

Current Section 20-006 has been renumbered as part of Section 20-005 as the county requirements contained in current Section 20-006 should not be set apart as a separate section heading. More appropriately, these requirements should be contained as part of Section 20-005, County Responsibilities, for ease of reference by the user of the regulations.

Section 20-006.1

Specific Purpose:

Section 20-006.1 is being adopted to define the new federally mandated income and eligibility verification system (IEVS).

Factual Basis:

Section 20-006.1 is necessary to comply with federal regulations contained in 7 CFR 271.2 and 272.8, and 45 CFR 205.51. The definition is necessary in order to prevent confusion and to ensure uniform compliance with and enforcement of the regulations on a statewide basis. Section 20-006.12 was restructured for clarity upon receipt of testimony from Santa Clara County during the public comment period.

Section 20-006.2

Specific Purpose:

This regulation specifies those persons for whom data inquiries must be made to the IEVS.

Factual Basis:

This requirement is necessary in order to implement the federal mandate in 7 CFR 272.8(a) and 45 CFR 205.55(b)(2).

Section 20-006.211

Specific Purpose:

This section is being adopted to implement the federal requirement that CWDs submit identifying information on every applicant for AFDC, Food Stamps, Refugee Demonstration Project or Refugee/Entrant Cash Assistance for matching against IEVS files.

Factual Basis:

This section is necessary to implement the federal mandate of 7 CFR 272.8 and 45 CFR 205.55 which requires inputting of applicant data through IEVS for the purposes of accessing income/eligibility information from the specified agencies.

Section 20-006.212

Specific Purpose:

This section is being adopted to specify when information on applicants must be submitted to the IEVS.

Factual Basis:

This requirement is necessary in order to implement the federal mandate at 7 CFR 272.8(e)(1) and 45 CFR 205.55(a)(2)(i), (a)(3), and (a)(4). Based on current state application procedures for AFDC and Food Stamps, the first available opportunity following application would be following the completion of the requisite Statement of Facts, the CA 2 for AFDC and the DFA 285(A2) for Food Stamps. Since the Statement of Facts may not be completed until several days or weeks following the initial application and often immediately prior to the granting of aid, the adopted regulations specify that the input of applicant information shall not be postponed beyond receipt of the Statement of Facts. However, in recognition of some unavoidable delays due to processing, i.e., data system requirements, eligibility worker workload, etc., and in order to establish a uniform standard throughout the state, five working days following the receipt of the completed statement of facts has been adopted.

Section 20-006.213

Specific Purpose:

This section is being adopted to specify that information shall not be submitted to the IEVS on persons who have been determined ineligible.

Factual Basis:

Sections 7 CFR 272.8 and 45 CFR 205.55 specify that the state shall input applicant information as soon as possible following application. However, based on discussion in the Federal Register preamble, (Volume 51, No. 40, page 7181),

input of information on applicants who have already been determined ineligible is not required.

Section 20-006.214

Specific Purpose:

Section 20-006.214 is being adopted to implement the requirement that information about individuals who cannot provide an SSN at application shall be requested as soon as possible after the CWD is notified of their SSN.

Factual Basis:

This section is necessary to implement the federal mandate of 7 CFR 272.8(e)(1) and 45 CFR 205.55(b)(1).

Section 20-006.221

Specific Purpose:

This section is being adopted to specify that recipient data must be submitted to the SDSS on a quarterly basis, for the purposes of operating IEVS.

Factual Basis:

This requirement is necessary in order to implement the federal mandate at 7 CFR 272.8(f) and 45 CFR 205.55(a) which specifies the time frames when the matches will occur for all recipients. Currently, information is collected on a quarterly basis for the Integrated Earnings Clearance/Fraud Detection System and this system will be modified for the purposes of implementing the state-operated IEVS.

Section 20-006.3

Specific Purpose:

This section sets out the federally mandated uses of IEVS information.

Factual Basis:

This addition is necessary in order to implement the federal requirements at 7 CFR 272.8(a)(5) and 45 CFR 205.56 (a)(1)(V).

Section 20-006.41

Specific Purpose:

This section is being adopted in order to establish the requirement that CWDs shall use the IEVS information received for applicants, to the extent possible, in making the eligibility determination. However, the eligibility determination shall not be delayed pending receipt of IEVS information if other information establishes the individual's eligibility.

Factual Basis:

This section is necessary to comply with the federal mandate contained in 7 CFR 272.8(e) and (g) and 45 CFR 205.56(a)(1)(iii) and 206.10(a)(5)(ii).

Section 20-006.42

Specific Purpose:

This section is being adopted in order to establish the requirement that CWDs shall, within the prescribed federal time frame, complete case action or make an entry in the case record that no case action is necessary. This section also defines a case action for the purposes of IEVS and specifies that completion of this action may be delayed on no more than the percentage of cases prescribed by federal rule under specified circumstances explained in this section. A clarifying phrase was added to Section 20-006.422(a) upon departmental review following completion of the public comment period. In addition, Handbook Section 20-006.423 has also been restructured and a phrase added for clarity. At the request of Los Angeles County, a new handbook section has been added.

Factual Basis:

This section is necessary to comply with the federal mandate contained in 7 CFR 272.8(g)(1)(2) and 45 CFR 205.56(a)(1)(iv).

Section 20-006.43

Specific Purpose:

This section is being adopted to establish that the time frames outlined in Section 20-006.4 do not apply to individuals or households where cases have been closed by the time the data match results are received. This section clarifies that the CWD shall identify such situations and

pursue claims and other actions as required by current regulations.

Factual Basis:

Federal regulations do not address the treatment of closed cases, however this issue is discussed in the preamble (Volume 51, No. 40, page 7182), and it is necessary for clarity to emphasize that the follow-up time frame does not apply to individuals and households whose cases have been closed by the time the IEVS data match results are received. This information on terminated cases warrants follow-up action and it is necessary that such situations are identified and claims and other actions pursued as required by current rules relating to information about terminated cases.

Sections 20-006.51 and .53

Specific Purpose:

These sections are being adopted in order to implement federally mandated procedures regarding appropriate CWD action based on IEVS information which is considered verified upon receipt, and to specify the instances in which such IEVS information shall be independently verified.

Factual Basis:

These additions are necessary in order to implement the federally mandated procedures at 7 CFR 273.2(f)(9)(iii) and 45 CFR 205.56(a)(i) and .56(a)(ii). Federal regulations for the Food Stamp Program (7 CFR 273.2(f)(9)(iii) specifically identify that IEVS information which is received from the income source is to be considered verified upon receipt and specify that the state agency shall take action based on such information, unless "the state agency has information that the IEVS obtained information about a particular household is questionable." Federal regulations for the AFDC program (7 CFR 205.56(a)(1)(ii)) provide that "the state agency shall take case action based on the IEVS information alone unless independent verification is determined appropriate based on agency experience. The adopted regulations, therefore, specify that case action shall be taken based on IEVS information from the income source to the extent that the information is applicable to case circumstances. The regulations also provide that where such information is questionable based on CWD experience or on other information available to the county, the information shall be verified independently.

Section 20-006.541

Specific Purpose:

This section is adopted in order to define the IEVS obtained information which must be independently verified prior to taking case action.

Factual Basis:

Federal food stamp regulations at 7 CFR 273.3(f)(9)(iv) specifically identify the IEVS-obtained information which must be independently verified. With the exception of IRS unearned income data, federal AFDC regulations at 45 CFR 205.56(a)(1)(ii) provide greater flexibility in the definition of "unverified information" by allowing that IEVS data shall be independently verified "...if such verification is determined appropriate based on agency experience." To ensure continued program compatibility in the state's implementation of these joint rules, the food stamp definition of "unverified information" has been adopted for both programs.

Section 20-006.542

Specific Purpose:

This section is being adopted in order to implement federally mandated standards regarding the independent verification of IEVS data.

Factual Basis:

This addition is necessary in order to implement the federal requirements at 7 CFR 273.2(f)(9)(IV) and 45 CFR 205.56(b)(1).

Section 20-006.543

Specific Purpose:

This section is being adopted in order to implement federally mandated procedures and options regarding the independent verification of IEVS information; to specify federally mandated notice requirements to the recipient regarding the nature of the IEVS information received, its effect on the individual's eligibility or benefits; and the action the CWD will take if the individual fails to respond to the notice.

This section also specifies the federally mandated requirements regarding the action to be taken when the individual or outside source provides the independent verification, including notification requirements prior to the initiation of an adverse action. Three separate clarifying phrases have been added as a result of comments received from Los Angeles County during the public comment period.

Factual Basis:

This section is being adopted in order to implement the federal requirements at 7 CFR 272.9(g)(1)(iii) and 7 CFR 273.2(f)(9)(V) and 45 CFR 205.56(a)(1)(ii), 45 CFR 205.56(b)(2)(ii) and 45 CFR 205.56(c).

Federal regulations for both the AFDC and Food Stamp Programs provide that for the purposes of "independent verification" the state agency may, at its option, either contact the recipient or may contact the source of the income directly. Federal food stamp rules have been changed to permit such direct contacts without the consent of the recipient household. Although there is no current federal AFDC restrictions regarding collateral contacts, state policy requires that the county obtain the recipient's consent prior to contacting a third party source. The adopted regulations reflect the option of always contacting the household/recipient prior to contacting the income source. However, this section also allows the county to contact the third party source directly without the consent of the recipient if he/she fails to respond or is unable to provide the required information. Concurrently, Section 40-157.22 is being revised to allow third party contacts without the prior consent of the applicant/recipient for the purposes of verifying IEVS information. This alternative was determined to provide the greatest safeguards to the applicant/recipient without sacrificing the CWD's ability to verify the IEVS information in those situations in which the individual is unable or unwilling to provide the required information.

Section 20-006.61

Specific Purpose:

This section is being adopted in order to implement the requirement that CWDs shall maintain records which contain information concerning all denials, discontinuances, and benefit modifications which have resulted from the use of IEVS information.

Factual Basis:

This requirement is necessary in order to implement the new federal mandate contained in 7 CFR 272.8(j)(2) and 45 CFR 205.60(a).

Section 20-006.62

Specific Purpose:

This proposal is being adopted in order to establish the requirement that CWDs shall report specified information as prescribed by DSS for the purposes of determining compliance with IEVS regulations and evaluating the effectiveness of IEVS.

Factual Basis:

This requirement is necessary in order to implement the new federal mandate contained in 7 CFR 272.8(j) and 45 CFR 205.60(b). These regulations specify only that the state shall report "as the secretary prescribes." The adopted regulations, therefore, specify a reporting requirement which cannot be specifically identified at this time.

Section 20-006.7

Specific Purpose:

The purpose of this section is to cross-reference taxpayer information obtained through IEVS with confidentiality requirements contained in Division 19.

Factual Basis:

Certain safeguards mandated in 7 CFR 272.1(c)(2) and 45 CFR 205.50(a)(2)(i)(B) must be maintained by counties receiving taxpayer information. These safeguards identified in Division 19 are based on California Revenue and Taxation Code Section 19282 and Internal Revenue Service Code Sections 7213 and 7431.

Section 20-007.36

Specific Purpose:

The cross-reference in this section is being changed from 40-157.32 to 40-157.22.

Factual Basis:

The cross-reference in this section was cited in error when it was revised in a previous regulation package.

Section 40-103.9

Specific Purpose:

Section 40-103.9 is being adopted to define the new program term of IEVS.

Factual Basis:

This addition is necessary in order to comply with federal regulations at 45 CFR 205.51(a) which define the Income and Eligibility Verification System. The definition is necessary in order to prevent confusion and to ensure uniform compliance with and enforcement of the regulations on a statewide basis.

Section 40-107.7

Specific Purpose:

The section is being amended to implement the change in SSN verification requirements mandated by federal IEVS regulation which require that SSNs be verified only through IEVS. This section is further amended to clarify that the counties may accept an SSN card or other documentation to meet the requirement that each applicant or recipient furnish an SSN, but that such numbers shall not be considered verified except through IEVS.

Factual Basis:

This revision is necessary in order to implement new federal mandates contained in 45 CFR 205.52(g). Clarification of the use of applicant/recipient provided documentation of furnished SSNs is based on discussion in the preamble (Vol. 51, No. 40, page 7198).

Section 40-115.22

Specific Purpose:

This section is being amended for clarity to specify that documentation is required for the "medical verification of pregnancy" rather than "medical verification or pregnancy."

Factual Basis:

This change is necessary to correct a typographical error in a previous regulations package.

Section 40-115.225

Specific Purpose:

Section .225 is added to implement the federal requirement that income and eligibility information be requested through IEVS and used in the determination of initial eligibility.

Factual Basis:

This addition is necessary to implement the new federal requirements at 45 CFR 205.56(a)(1)(iii).

Section 40-131.3(n)

Specific Purpose:

Section 40-131.3(n) is added to make specific the requirement that the uses of IEVS information be discussed at the application interview.

Factual Basis:

Federal regulations at 45 CFR 205.56(a)(1)(ii) require that all applicants/recipients be informed in writing at the time of application and redetermination of the use of IEVS. The additional requirement to inform applicants orally at the application interview is the result of county suggestion that the written notification be reinforced at this time. This procedure is also consistent with proposed Medi-Cal regulations implementing IEVS within that program.

Section 40-131.3(o)

Specific Purpose:

This section is renumbered from Section 40-131.3(n).

Factual Basis:

This change is necessary for numbering consistency.

Section 40-131.3(p)

Specific Purpose:

This section is renumbered from Section 40-131.3(o).

Factual Basis:

This change is necessary for numbering consistency.

Section 40-157.22

Specific Purpose:

Section .22 is revised to exempt IEVS verification procedures from the requirement that prior consent be obtained from the applicant/recipient before initiating a collateral contact.

Factual Basis:

This revision is necessary in order to implement the new federal mandate contained in 45 CFR 205.56(a)(1)(ii).

Section 40-181.123

Specific Purpose:

This revision is necessary to establish the requirement that the counties provide written notification to applicants and recipients at the time of application and at redetermination of the use of IEVS and that IEVS-obtained information shall be used in determining their eligibility for aid and/or benefits.

Factual Basis:

This revision is necessary in order to implement the new federal requirement contained in 45 CFR 206.10(a)(2)(iii).

Section 40-181.4

Factual Basis:

Section 40-181.4 is being adopted in order to establish the requirement that income information regarding applicants and recipients be regularly requested through IEVS for the purpose of verifying eligibility and the amount of assistance and to provide a cross-reference to Section 20-006. This section also makes specific the individuals for whom IEVS information must be requested.

Factual Basis:

The adoption of this section is necessary in order to implement the federal mandates of 45 CFR 205.55(a)(1), (a)(3), and (a)(4), and 45 CFR 205.55(b)(2) to make specific

the county responsibility to request applicant/recipient information, to define the terms applicant/recipient for the purpose of this requirement, and to provide a cross-reference to the appropriate follow-up time frame and verification procedures regarding the receipt of IEVS match information contained in Sections 20-006.4 and .5. As a result of testimony from Santa Clara County during the public comment period, additional handbook material has been included in Section 40-181.413.

Section 40-181.5

Specific Purpose:

This section is renumbered from Section 40-181.4.

Factual Basis:

This change is necessary for numbering consistency.

Section 63-061

Specific Purpose:

Section 63-061 requires the implementation of income and eligibility verification procedures required by IEVS. Proposed regulations will establish and make specific in food stamp regulations the IEVS requirements. As a result of testimony received from Los Angeles County during the public comment period, this section has been restructured and amended to specify the effective date of these regulations.

Factual Basis:

These proposed regulations are necessary to implement the federal mandate and to ensure compliance with federal regulations contained in 7 CFR 271.2, 272.1, 272.8, 273.2, and 273.6 to establish IEVS.

Section 63-102

Specific Purpose:

This addition defines the new program term of IEVS.

Factual Basis:

This addition is necessary in order to comply with federal regulation 7 CFR 271.2 which defines the new income and

eligibility verification system. The definition is necessary in order to prevent confusion and to ensure uniform compliance with and enforcement of the regulation on a statewide basis.

Sections 63-201.316 and .34

Specific Purpose:

Section 63-201.316 is being adopted to include those persons directly connected with the administration or enforcement of the programs required to participate in IEVS as part of those restricted persons who are allowed to use or disclose information obtained from food stamp households. In addition, Section 63-201.34 is being amended to clarify that information received through IEVS must be protected from unauthorized disclosure.

Factual Basis:

These sections are necessary to ensure compliance with the federal mandate contained in 7 CFR 272.1.

Section 63-300.22

Specific Purpose:

This adoption establishes the requirement that all applicants for and recipients of food stamp benefits at the time of application and at recertification must be notified by the CWD that: (1) information available through IEVS will be requested, used and may be verified through a collateral contact when discrepancies are found; and (2) that such information may affect the household's eligibility and level of benefits.

Factual Basis:

This adoption is necessary in order to implement the new federal mandate contained in 7 CFR 273.2.

Section 63-300.54 and .55

Specific Purpose:

These sections are being amended in order to revise food stamp verification procedures to specify the new IEVS procedures when a discrepancy occurs between the unverified IEVS data and the case record.

Factual Basis:

This revision is necessary in order to implement the new federal mandate contained in 7 CFR 273.2(f)(4) and (9).

Section 63-300.59

Specific Purpose:

Section 63-300.59 is being adopted in order to establish the requirement that income information regarding applicants and recipients be regularly requested through IEVS for the purpose of verifying eligibility and the amount of assistance, and to provide a cross-reference to Section 20-006. This section also makes specific the individuals for whom IEVS information must be requested.

Factual Basis:

This adoption implements the new federal mandate of 273.2(f)(9) which is necessary to implement IEVS.

Section 63-301.541(c)

Specific Purpose:

This amendment changes the reference citation from 63-404.1 to the correct cite of 63-404.2.

Factual Basis:

This amendment is editorial and necessary for clarity.

Section 63-404.1

Specific Purpose:

This section is being amended to incorporate changes in the SSN requirements for participation in the Food Stamp Program. The CWD is required to explain to applicants and recipients that refusal or failure without good cause to provide or apply for an SSN shall result in disqualification. For individuals who provide SSNs prior to certification, the CWD is required to record and verify the SSN.

Factual Basis:

These regulation revisions are necessary to implement the federal mandate in 7 CFR 273.6(a) and (b).

Section 63-404.2

Specific Purpose:

This section is being renumbered from Section 63-404.1 to .2.

Factual Basis:

This amendment is editorial renumbering only and necessary for consistency as provided in Government Code Section 11349(c).

Section 63-404.3

Specific Purpose:

This section is being amended to reflect the changes in and to provide clarity to the requirements for obtaining an SSN. Once the household member has filed an application for an SSN and continues to meet all other eligibility requirements, that member shall be permitted to continue to participate pending notification of the CWD of the household member's SSN.

Factual Basis:

This section is necessary to provide clarity and to implement the federal mandate of 7 CFR 273.6(d).

Section 63-404.4

Specific Purpose:

This section is being amended to reflect the changes in the SSN requirements for failure to comply. If the CWD determines that a household member has refused or has failed without good cause to provide or apply for an SSN, that individual shall be ineligible to participate until he/she complies.

Factual Basis:

This section is necessary to implement the federal mandate in 7 CFR 273.6(c).

Section 63-404.5

Specific Purpose:

This section is being amended to reflect the changes in determining good cause for failure to comply with the requirement to apply for or provide the CWD with an SSN.

Good cause does not include delays due to illness, lack of transportation, or temporary absences.

If the household shows good cause why an application for an SSN has not been completed in a timely manner, the household member is allowed to participate for one month in addition to the month of application. Thereafter, for a household member to continue to participate, good cause for failure to apply for a number must be shown monthly.

The CWD is required to make efforts to assist the individual applying for an SSN if the individual has been unable to obtain the documents required by the SSA.

Factual Basis:

This revision is necessary to implement the federal mandate in 7 CFR 273.6(d).

Section 63-404.6

Specific Purpose:

Section 63-404.6 is being renumbered and amended to establish the new verification requirement that the SSNs reported by a household shall be verified through IEVS. Once an SSN has been verified through IEVS or by another program participating in IEVS, the eligibility worker (EW) shall annotate the case file accordingly to prevent the need for future reverification. A phrase was deleted from Section 63-404.64 which was unnecessary. This was done upon departmental review following completion of the public comment period.

Factual Basis:

This revision is necessary to comply with the federal mandate in 7 CFR 273.2(f)(1)(V).

Section 63-404.7

Specific Purpose:

This section is being amended to incorporate changes in the SSN requirements for participation in the Food Stamp Program.

Factual Basis:

This revision is necessary to implement the federal mandate of 7 CFR 273.6(a) and (b).

Section 63-503.442

Specific Purpose:

This section is being amended to incorporate changes in the SSN requirements for participation in the Food Stamp Program.

Factual Basis:

This revision is necessary to implement the federal mandate of 7 CFR 273.6(a) and (b).

Section 63-504.515(c)

Specific Purpose:

This section is being repealed as newly obtained social security numbers no longer need to be verified at recertification with the implementation of IEVS.

Factual Basis:

This amendment is necessary in order to implement the federal mandate contained in 7 CFR 273.2(f)(1)(V).

c) Identification of Documents Upon Which Department Is Relying

Welfare and Institutions Code Sections 10553, 10554, and 10850; Internal Revenue Service Code Sections 6103(a), (b), (b)(2), (d)(4), and 7431; 7 CFR 271.2, 7 CFR 272.1, 272.1(c)(2), 272.8, 272.8(a), 272.8(a)(5), 272.8(e), 272.8(e)(1), 272.8(f), 272.8(g), 272.8(g)(1), 272.8(g)(1)(iii), 272.8(j), 272.8(j)(2), 7 CFR 273.2, 273.2(f)(4), 273.2(f)(8), 273.2(f)(9), 273.2(f)(9)(iii) and (iv), 273.6(a) through (d) et seq., and 7 CFR 279.3; and 45 CFR 205.50(a)(1)(b), 205.51, 205.51(a), 205.52(g), 205.55, 205.55(a)(2)(1), 205.55(a)(3) and (4), 205.55(b)(1) and (2), 205.56(a)(1)(i) through (v) et seq., 205.56(b)(1), 205.56(b)(2)(ii), 205.60(a) and (b), and 45 CFR 206.10(a)(2)(iii) and 206.10(a)(5)(ii).

d) Testimony Summary and Response

The Department conducted the public hearing for this filing on January 14, 1987. There was no oral testimony presented

at the public hearing. Written testimony was received from the County Welfare Director's Association (CWDA) and from five counties (El Dorado, Los Angeles, Orange, Riverside and Santa Clara). The specific comments have been responded to numerically and are followed by general comments and their responses.

Section 19-002.22

Comment:

Santa Clara County commented that as this section is written, it will be unlawful for the worker to discuss the IRS information with the client and that clearing up discrepancies with the client would be exceedingly difficult. They suggested that the worker be allowed to discuss information with the client.

Response:

The Department has revised this section to remove ambiguities and specifically state that the information is to be used in the programs concerned. This amendment also eliminates the unintended inference that the information cannot be shared with the client.

Section 19-002.23

Comment:

Santa Clara County noted that the security requirements will create a great burden on the counties.

Los Angeles County commented that it is not clear what is meant by the phrase "Establish and maintain a secure area..." and suggested that IRS tax information be considered secure if it is kept with the case record.

Response:

IEVS requires IRS data to be used to identify unreported assets. The security requirements for this data are imposed by the IRS itself. SDSS has no authority over the security the IRS puts on its own data. We have requested a waiver from the federal agencies to allow us to use Franchise Tax Board data instead of IRS data. We are waiting for their response. For the time being, as long as we are required to use IRS data, we will be required to abide by their security requirements.

Comment:

The CWDA noted that the locked storage requirement will substantially increase local and state costs, and the access prohibition will preclude the District Attorneys' Special Investigative Unit (SIU) investigators in 20 counties from gaining access to IEVS information.

Response:

We concur with the comment from CWDA concerning the increased storage costs and prohibiting access to district attorneys' SIU investigators. Since the use of IRS data requires compliance with IRS security guidelines, these requirements must be followed.

Sections 20-005.2 and .3

Comment:

Los Angeles County requested some changes to be made to regulations not noticed for change.

Response:

Changes to these regulations other than renumbering were not noticed and cannot be considered within the scope of this filing.

Section 20-005.322

Comment:

Los Angeles County proposed changes to this regulation citing that requiring fraud investigations within application time frames is not realistic.

Response:

This is an existing regulation and amendments to this section cannot be considered for change without being noticed.

Section 20-006.11

Comment:

Santa Clara County noted that Medi-Cal is listed as an aid program in this section and requested that Medi-Cal be included in all the references listing the aid programs in IEVS.

Response:

The Department does not concur. These regulations are intended to regulate the AFDC (including Refugee Assistance) and Food Stamp programs. For this reason, reference to Medi-Cal has been limited to the definition of IEVS (Section 20-006.11). The Department of Health Services is currently developing separate regulations to implement IEVS within the Medi-Cal Program.

Section 20-006.12

Comment:

Santa Clara County noted that the paragraph format is difficult to follow and suggested that the various data bases used in IEVS matches be listed and numbered separately under Section 20-006.12.

Response:

The Department concurs. This section has been restructured for clarity.

Section 20-006.2

Comment:

Santa Clara County questioned its authority to enter information into the data base regarding persons who are neither applicants nor recipients but whose income and resources are considered in determining eligibility and the amount of benefits.

Response:

The authority for the county to input this information is contained in this state regulation which is derived from federal IEVS regulations for both the AFDC and Food Stamp programs. Federal IEVS regulations require that the SSNs of such individuals be submitted to IEVS if the numbers are collected or are otherwise available.

Section 20-006.213

Comment:

Santa Clara requested that a statement be included in this section that IEVS information may be submitted on applicants when eligibility is still pending.

Response:

The Department does not concur. Input of information to IEVS on pending applications is already required in Section 20-006.212 unless the applicant has been determined ineligible as specified in Section 20-006.41. Furthermore, the language suggested by Santa Clara County, making the input of IEVS data on pending applications discretionary, is contrary to the intent of the application system.

Sections 20-006.22 and .222

Comment:

Los Angeles County stated that this section required quarterly input by counties in order to conduct part of the matches required by IEVS. The regulations should specify somewhere that the Payment Verification System (PVS) portion of the IEVS Recipient System will be run by the state monthly, using data input by counties to the Central Data Base. Los Angeles County also stated that the Medi-Cal IEVS regulations should be cross-referenced here.

Response:

The Department can find no necessity to require by regulation that the Department run this system monthly. For informational purposes, a handbook section informing the counties that the PVS data will continue to be extracted by SDSS from the Central Data Base has been added to the regulation package.

The Medi-Cal IEVS regulations cannot be cross-referenced because they will not be written until after this regulation package is finalized.

Section 20-006.32

Comment:

Los Angeles County commented that Section 20-006.32 should be revised to specify that IEVS shall be used to verify current benefits.

SDSS Response:

The Department does not concur. Information obtained through IEVS would generally be used to verify both the client's current and past benefits. Therefore, it is inappropriate to

specify that IEVS information be used solely to verify the current month's benefits.

Section 20-006.42

Comment:

El Dorado, Los Angeles, Riverside and Santa Clara counties commented on the time frame for case follow-up and using tolerance levels to reduce the number of cases requiring follow-up. Collectively, the counties requested that SDSS pursue obtaining waivers from the federal agencies mandating IEVS to allow additional time to process IEVS cases, maintain current state-approved tolerance levels, change the 20 percent exemption rule that allows more than 30 days to review cases pending third-party verification, and eliminate processing of closed cases.

Response:

SDSS is currently pursuing waivers from the federal agencies involved, seeking an increase in the time allowed to process cases and to use tolerance levels to reduce the number of cases requiring processing. If those waivers are obtained, the counties will be notified. The federal agencies mandating IEVS have indicated that the 20 percent exemption rule is not open for negotiation. Therefore, no change to this rule is allowed.

Existing federal and state rules require follow-up on information that indicates a potential overpayment/overissuance. Therefore, closed cases must still be followed up on, even though the new IEVS rules exempt these cases from the 30-day follow-up time period.

Section 20-006.423

Comment:

Los Angeles County suggested that since the 30-day federal time frame for verifying IEVS information and taking case action is presented in handbook rather than regulation, the federally prescribed exception to this requirement, allowing a delay for no more than 20 percent of IEVS matches, should also be put into handbook rather than regulation as it is subject to change.

Response:

The Department concurs with this comment and will place the federal requirement that case action be delayed beyond the federally prescribed time frame (currently 30 days) on no more than 20 percent of IEVS matches into handbook.

Section 20-006.423(b)

Comment:

Los Angeles County asked for clarification on whether they must continue to pursue third-party verification if it is not received after the initial request.

Response:

This regulation does not require continued pursuit, but does not preclude the county from taking further action. This section has been rewritten and reorganized to clarify the procedures the county shall take if the third-party verification is not received within the prescribed time frames.

Section 20-006.5

Comment:

Santa Clara County commented that this section makes no provision for clearing up discrepancies which are due to the SSN itself and requests that some provision be made for paying aid while clearing the SSN problem, such as another person working and using the client's SSN.

Response:

The Department does not concur. The regulations already provide for resolving discrepancies which are the result of the SSN itself. Section 20-006.541 specifies that the CWD shall independently verify all IEVS information received from a secondary source and any information received from the income/benefit source which is considered to be questionable prior to taking a case action to reduce or terminate benefits. Questions regarding a possible discrepancy in the SSN and/or regarding the applicability of the IEVS information to case circumstances must, therefore, be resolved before a case action may be taken.

Section 20-006.533

Comment:

Los Angeles County commented that if the county determines the IEVS information received from a benefit source to be questionable, it must independently verify the information which could lead to an increase in appeals and litigation.

Response:

The Department does not concur. The purpose of this regulation is to provide the CWDs with the ability to challenge information received through IEVS which does not comport with the known facts in the case file. Without this authority, primary source IEVS data received by the county could be used to adversely impact the assistance unit, when in fact there could be an error. It is the view of the Department that this regulation will have the opposite effect of that stated by the county in their testimony and instead may actually reduce the number of state hearings.

Section 20-006.54

Comment:

Los Angeles County requested that this section be amended to specifically require applicants and recipients to provide and CWDs to obtain information concerning the termination of employment when that employment termination occurred prior to the beginning date of cash aid or food stamp benefits.

Response:

The Department does not concur. This data is already collected for AFDC and the Department lacks authority to require this information for the Food Stamp Program.

Section 20-006.543

Comment:

Los Angeles County recommended that, "Except as permitted in (d) below" be added before, "the CWD shall verify."

Response:

The Department concurs and will add the suggested phrase for clarity.

Comment:

Los Angeles County also recommended that language be added to clarify that the notification to the recipient required under this section is not a notice of adverse action.

Response:

The Department concurs. This section has been revised for clarity as suggested.

Section 20-006.543(b)(1)

Comment:

Los Angeles County commented that AFDC should be included in the requirement that aid be terminated if the recipient fails to respond to the notification, and pointed out that the preamble to the joint federal regulations implementing IEVS states that the food stamp change is being made to conform to AFDC policy. Due to this statement, it is concluded that federal intent is clearly that the programs be the same.

Response:

The Department does not concur. Although, the language used in the preamble implies a similarity between the new Food Stamp Program rule and current AFDC policy, Federal AFDC regulations do not provide for the termination of aid due solely to the recipient's failure to cooperate in a review of his/her past eligibility. Federal AFDC IEVS regulations also fail to address the issue. For this reason, this section only refers to the Food Stamp Program which specifically requires this action.

Section 20-006.543(c)

Comment:

Los Angeles County commented that the cross-reference in this section seems unnecessarily indirect and suggests simply restating the notice of action requirement here.

Response:

The Department concurs with this comment and has revised this section accordingly.

Section 20-006.6

Comment:

Los Angeles County commented that the proposed reporting requirements are too open-ended and that reporting should be limited to that required by the federal regulations.

Response:

The regulation sets forth with specificity the data to be collected and maintained, but the specific procedures for reporting the information must await federal guidelines. The proposed regulations are based on the federal regulations which state that the federal agencies reserve the right to require information from states regarding IEVS matches. It is our intent that we minimize the collection of data to that which is necessary for effective management of that program as is required by the federal agencies. The federal agencies have stated that they intend on collecting only that data that is necessary for the effective management of IEVS.

Section 40-181.123

Comment:

Santa Clara County questioned if the notification requirements regarding IEVS also extend to persons whose income is deemed to the assistance unit (AU), i.e., steoparents, senior parents, alien sponsors, and should that information be included in this section or in Section 40-181.413.

Response:

Such individuals are notified of the uses of IEVS through the normal application/notification process. The IEVS notice required by this section will be included on forms applicable to all individuals who apply for, or receive aid or whose income/resources are used in determining eligibility.

Section 40-181.413

Comment:

Santa Clara County requested that the persons whose income and resources are considered in determining the eligibility of the AU be listed.

Response:

The Department concurs. This section has been revised as requested.

Section 63-061.1

Comment:

Los Angeles County commented there is no effective date for currently certified households.

Response:

This section has been amended to replace the language "effective on the first of the month 30 days after filing with the Secretary of State" to state specifically that the effective date of these regulations is July 1, 1987 for both applicants and recipients.

Section 63-201.3

Comment:

Los Angeles County requested that the confidentiality requirements of IRS and Franchise Tax Board (FTB) information be limited to those currently in use for welfare records, thereby preventing the need for counties to take costly measures.

Response:

See response to Section 19-002.23.

Section 63-300

Comment:

Los Angeles County noted that the Department see their comments on Section 20-006.

SDSS Response:

See response to comments on Section 20-006.

Section 63-300.22

Comment:

Santa Clara County suggested that the definition of "applicant" and "recipient" should be added to Section 63-102, the definition section, and specified in Section 63-300.22. All persons in the home whose income is included, even if the person is not eligible for food stamps, need to be notified about IEVS verification process.

Response:

The Department does not concur. The definitions of "applicants" and "recipients" are defined in Section 20-006.2, under IEVS requirements which are applicable to both AFDC and the Food Stamp Program, and are referenced in Section 63-300.591. It would be duplicative to list the definitions again in the Food Stamp Program and AFDC manuals. The IEVS notice required by Section 63-300.22 will be included on the DFA 285A and related forms applicable to all individuals who apply for, or receive benefits or whose income/resources are used in determining eligibility.

Comment:

Orange County asked if the state is developing language for the IEVS informing notice required by this section.

Response:

Yes, the Department is adding notice language to the applicable AFDC and Food Stamp Program forms.

Section 63-300.592(c)(1)

Comment:

Santa Clara County commented that the example used is unfortunate as an ineligible alien should not have an SSN and that it would be effective if another type of excluded person were used in the example.

Response:

The example used was chosen as it applied to both AFDC and the Food Stamp Program. The same example was used for compatibility in both these programs' regulations. There are situations when an alien would have an SSN and still be ineligible to participate in the program. For instance, an alien who has appealed a deportation order will often receive a right-to-work permit and an SSN despite having no eligibility for AFDC or food stamps.

Sections 63-404.5 and .6

Comment:

Los Angeles County had the following comments on these sections:

- It was noted that these proposed regulations do not provide requirements for the action to be taken if the Social Security Administration (SSA) states the SSN provided is invalid.
- It was requested that an explanation of what constitutes "good cause" be included in this section and that clarification be added as to whether "good cause" will be recognized for quality control (QC) purposes. Santa Clara also requested clarification of what constitutes "good cause."
- It was also suggested that the provision which allows clearance of nonaided individuals through IEVS "to the extent that the county collects the SSN" be changed to stipulate that counties may request such information but are not required to do so.

Response:

- If an SSN cannot be verified through SSA, this would be considered questionable information and handled according to Section 20-006.54 which details the procedures to be used for verifying information independently. It specifies that the CWD shall verify independently all IEVS information received from a secondary source and any information received from the income/benefit source which is considered to be questionable prior to taking a case action to reduce or terminate benefits. Questions regarding a possible discrepancy in the SSN must be resolved before a case action may be taken.
- A broad definition of what constitutes "good cause" is included in Section 63-404.5. The CWD should at least consider information provided by the household member and the Social Security Administration (SSA) when determining if good cause existed for failure to comply with the SSN requirements to apply for or to provide the CWD with an SSN. However, good cause must not specifically include delays due to illness, lack of transportation or temporary absences because SSA makes provisions for mailing in applications in lieu of applying in person. These are the minimum standards and thus allow the CWDs the latitude to consider all pertinent facts for each individual situation when making a good cause determination. The Department's quality control staff would not cite errors in this area provided the counties are in compliance with these state regulations.
- Federal IEVS regulations for both the AFDC and Food Stamp programs require that the SSNs of such individuals be submitted to IEVS if the numbers are collected by or are

otherwise available to the county. The final rules for the AFDC and Food Stamp programs require that individuals whose need, income, or resources are included in the eligibility determination must be included in matching if the county maintains the SSNs of such individuals.

Section 63-404.511

Comment:

Santa Clara County requested that "another program on IEVS" be defined.

Response:

Based on comments, the Department has repealed the wording "another program on IEVS" as it is redundant.

General Comments to the proposed regulations follow:

Comment:

The County Welfare Directors Association (CWDA) requested that the State maximize the use of existing data sources, including the SAWS central data base, prior to creating new data collection vehicles to undertake IEVS activities.

Response:

The Department is using existing data bases to operate the IEVS program. The Department will continue to use the existing Integrated Earning Clearance/Fraud Detection System (IEF) data base to operate the Wage Match and Asset Match Systems. The Department will also continue to use the Eligibility History File (EHF) to operate the Payment Verification System (PVS). When enhancements to the Statewide Automated Welfare System (SAWS) are complete and the data base includes all necessary elements to complete the matches, it will be used as the sole data base for IEVS. Federal deadlines prevent SDSS from waiting for SAWS to be completed before operating IEVS.

Comment:

The CWDA commented that given the serious fiscal constraints faced by most counties and the fact that many counties are financially "distressed," many counties will find it terribly difficult to fund the substantial new costs associated with IEVS. The CWDA further asked that an explanation of how local mandated costs were derived should be provided.

Response:

The Department concurs that there will be a significant increase in some county costs necessary to operate IEVS. It was felt by the federal agencies which mandated the implementation of IEVS that the increase in operating costs would be outweighed by the program savings that IEVS would generate. For that reason, it is a federal requirement that all states and counties implement IEVS.

Comment:

El Dorado County commented that the IEVS regulations will impose mandates on local agencies which will require an adjustment to eligibility target levels.

Response:

As with other mandates that affect workloads in the counties, SDSS will allocate premise funds to cover this additional work. Generally, two years after implementation, the Department will evaluate this workload and where appropriate adjust eligibility worker targets. This policy will apply to IEVS.

Comment:

The CWDA commented that it is unclear how the local mandated costs for IEVS have been derived and believes a detailed explanation is warranted.

Los Angeles County made a similar general comment without citing a specific section.

Response:

A more detailed and up-to-date cost estimate for IEVS operations will be available through the November 1986 Subvention Package being sent to the counties shortly.

Comment:

The CWDA commented that IEVS will generate a higher level of Medi-Cal application denials and given the serious underfunding of county Medi-Cal administrative costs which has occurred since 1982-83, it is likely the implementation of IEVS will reduce the funding for county Medi-Cal administrative activities because of the denial rate sanction while simultaneously increasing the overall county Medi-Cal

administrative costs. This "double increase" in county costs is unacceptable.

Response:

The comment does not pertain to these regulations because they do not deal with Medi-Cal.

15-Day Renotice Testimony and Response

El Dorado and Los Angeles counties provided written testimony during the 15-day renotice period (April 9, 1987 through April 24, 1987). Those comments which deal with the renoticed modified language are being responded to in numerical order. Those comments which do not pertain to the modified language will not be addressed.

Section 20-006.22

Comment:

Los Angeles County recommended that the phrase "be continued to" be deleted so that the sentence reads: "Input for the PVS will be extracted by SDSS monthly from the county input to the Central Data Base."

Response:

The Department does not concur. This nonregulatory handbook section was added based on previous testimony for informational purposes only to explain that the current PVS will be continued.

Section 20-006.543(c)

Comment:

Los Angeles County recommended for clarity that SDSS reword this section to state that the CWD shall either take case action including the issuance of a notice of adverse action rather than take case action by sending a notice of adverse action.

Response:

The Department does not concur. In these circumstances, the federal regulations require an action which affects the aided group or person. Such an action must be initiated by a notice of action. (See page 7205 of Volume 51, Federal Register for the Food Stamp Program rule.) The Department is

making an editorial correction to amend "adverse notice of action" to "appropriate notice of action" because the use of the word adverse could cause confusion as it is not used in the regulations nor on the forms, themselves.

e) Local Mandate Statement:

The Department has determined that these regulations do impose mandate on local agencies, but not on school districts. There are no reimbursable costs under California law because these regulations merely implement federal mandates.

f) Statement of Potential Cost Impact on Private Persons or Businesses:

The amendments to these regulations have been determined to have no significant impact on private persons or businesses.

g) Small Business Impact Statement:

The amendments to these regulations have been determined to have no significant impact on small businesses.

h) 15-Day Renotice Statement:

A 15-day renotice memorandum and the modified text were made available to the public from April 9, 1997 through April 24, 1987 pursuant to the provisions of Section 11346.8 of the Government Code.

ensuring that the confidentiality of tax information is being maintained; and

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The county shall destroy IRS source material upon the independent verification of IRS tax information or upon completion of appropriate case action, whichever is earlier. Methods of destruction shall be those used for confidential material.

Penalties for Unauthorized Disclosure of Tax Information

State Tax Information (Franchise Tax Board)

"Except as otherwise provided in this article, it is a misdemeanor for the Franchise Tax Board or any member thereof, or any deputy, agent, clerk, or other officer or employee of the state (including its political subdivisions), or any former officer or employee or other individual, who in the course of his or her employment or duty has or had access to returns, reports, or documents required under this part, to disclose or make known in any manner information as to the amount of income or any particulars set forth or disclosed therein."

Federal Tax Information (Internal Revenue Service)

a) Criminal Penalties

"It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in Section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i), (1)(6), (7), (8), (9), (10), or (11), or (m)(2) or (4) of Section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution."

b) Civil Damages

"If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of Section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States."

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code; and Sections 19282 and 19285.5, Revenue and Taxation Code.

Reference: Section 10850, Welfare and Institutions Code; and Sections 6103(a), (b), (b)(2), and (p)(4), and 7431, Internal Revenue Service Code.

Repeal Sections 20-005.23, .24, and .25, renumber and amend Sections 20-005.26 and .27, and renumber Section 20-006 to read:

20-005 COUNTY RESPONSIBILITY (Continued)

20-005

.2 Special County Responsibilities

Each county shall:

- 21 Subject to the provisions of Section 20-007.1, establish and maintain a Special Investigative Unit (SIU) in accordance with Section 20-007 consisting of staff trained and qualified to prevent, detect, and investigate fraud and to carry out investigations of other possible criminal activity within the purview of the CWD.
- 22 Notify the State Department of Social Services (SDSS) of those investigators exercising the option to carry firearms, pursuant to Penal Code Section 830.31.
- 23 Use the Integrated Aid to Families with Dependent Children AFDC/Food Stamp Fraud Detection System in SDSS which monitors the reporting of income by AFDC recipients and income and other circumstances by food stamp recipients. This system will compare recipient information against reports including reports by employers possessed by other governmental entities.
- 24 Submit every quarter at a time specified by SDSS and in a format prescribed by SDSS, specified information which is necessary for the purpose of operating the Integrated AFDC/Food Stamp Fraud Detection System for each member of each AFDC family budget unit (FBU) and of each food stamp household required to have an SSN pursuant to Sections 4A-105-2 and 63-404.
- 25 Develop administrative procedures in order to compare data received from the Integrated AFDC/Food Stamp Fraud Detection System with information reported by recipients. From data provided by SDSS on each AFDC and/or food stamp case, CWDs shall follow up on all cases in a prioritized order based on potential ineligibility, the dollar value of the discrepancy, and the potential for recovery. Follow-up procedures include validating the discrepancy and referring the case to the SIU if appropriate. Those cases meeting criteria for referral to the SIU as described in Section 20-003-2 shall be referred within 20 days from

the EWB's receipt of the Integrated AFDC/Food Stamps Fraud Detection System results from SDSS. Claims shall be established and collections pursued for all verified discrepancies in accordance with Sections 63-894-1, -2, and -3 for food stamps and Section 44-350 for AFDC.

- 251 In the Food Stamp Program, households shall be given an opportunity to refute any discrepancies under the EWB's follow-up procedures.
- 263 Maintain complete records on all fraud investigation activities for statistical reports to be submitted to SDSS on the series BDP DPA 266 forms.
- 274 Provide periodic refresher and special training in the prevention and detection of fraud to all program staff, and first-line supervisors, utilizing curricula approved by the SDSS. It is recommended that new employees receive a minimum of eight hours of such training during the first four months of their employment. Minimum adequate refresher training is considered to be four hours annually.

20-006.3 Responsibility of Eligibility Workers and Supervisors

•31 General

•311 Program staff and program supervisors are responsible for determining eligibility and correct amount of benefits for all recipients. They must ensure that the applicant/recipient understands his/her responsibility for providing correct and complete data and for promptly reporting facts required for correct determination of eligibility and amount of benefits. The program staff must also ensure that the applicant/recipient understands the penalties involved for misstating or not reporting relevant facts. This responsibility should be reviewed with the applicant/recipient regularly as a reminder or to clear up any misunderstanding.

•312 The program staff is also responsible for taking prompt action on information received and for relating information received, or observed, to possible future changes in eligibility or need subject to the provisions of Division 22-000.

- 313 When it is known that recipients have a problem in reporting changes, more frequent contacts may minimize the problem when there is a reasonable doubt as to the continuing eligibility or correctness of benefits. This type of follow-up of information to prevent possible fraudulent action by the recipient is a recognized "helping" process for which the program staff is responsible.
- 314 The observations of the program staff and information from unrelated conversation may bring out the facts even though the applicant/recipient may not have intended to report them in the beginning.

•32 Certification and Reporting Requirements

- 321 Program staff shall advise applicants/recipients of the possibility of criminal penalties for making false statements or failing to report information or circumstances which may affect eligibility or amount of benefits, and shall certify that they have fulfilled this responsibility during each benefit application or eligibility redetermination. The certification shall be signed and dated by both the program staff person and the applicant/recipient on the same page.
- 322 All cases in which program staff or other county employees have reasons to suspect fraud based on the criteria set forth in Section 20-003.2 shall be referred to the SIU within five working days (see Section 20-007.31). When an applicant is suspected of fraud, the case shall be referred to the SIU immediately and prior to completion of the application for or granting of benefits. Because of the pendency of the application, the SIU shall investigate these cases on a priority basis in order to resolve any questions of possible fraud in time to allow the county to complete the determination of eligibility within the time limits imposed upon the particular program. The fact of, or information concerning, a referral to the SIU shall not be disclosed to unauthorized persons.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt new Section 20-006 to read:

20-006 INCOME AND ELIGIBILITY VERIFICATION SYSTEM
(IEVS) REQUIREMENTS

20-006

•1 Definition

•11 The Income and Eligibility Verification System (IEVS) is a federally mandated system, by which the federally funded AFDC, Refugee Cash Assistance (RCA), Refugee Demonstration Project (RDP), Medi-Cal Only, and Food Stamp programs request, exchange, and use information for the purposes of verifying eligibility for the amount of benefits available under these programs.

•12 IEVS consists of a coordinated data exchange among the various benefit programs using a standardized format for matching purposes.

•121 The data bases used in this ongoing IEVS "match" include:

- (a) Wage information from the State Wage Information Collection Agency;
- (b) Unemployment/disability compensation benefits from the agencies administering those programs;
- (c) Benefits/pensions/wage information from the Social Security Administration (SSA);
- (d) Internal Revenue Service (IRS)/Franchise Tax Board (FTB) unearned income data;
- (e) Social Security number (SSN) verification information from SSA; and
- (f) Inter/intra county duplicate benefit matches.

Under these IEVS regulations, the CWD shall submit certain information on applicants and recipients to the state in order that it may be matched against the other IEVS data bases. All applicant data is submitted to, and processed by, the State Department of Health Services (SDHS). All recipient data is submitted to,

processed by, the State Department of Social Services (SDSS).

Upon receipt of the matched IEVS data (information reports) from the state, the CWD is to use this information to determine eligibility and the appropriate level of benefits, by reviewing and comparing it to case record information, and by verifying the applicability of the matched data.

The CWD is also responsible for maintaining records on the use of IEVS information as it applies to both applicants and recipients.

All of the county responsibilities with regard to the input and use of IEVS data are subject to specific time frames (regulated in this section).

.2 IEVS Data Input

For the purposes of this section, the terms "applicant" and "recipient" shall include all individuals seeking or receiving assistance and any other individuals whose income and resources are considered in determining the amount of benefits if the SSN has been obtained by the CWD. Applicants and recipients of nonfederally funded programs such as state-only AFDC are not considered applicants and recipients for the purposes of IEVS.

.21 Applicant Data

- .211 The CWD shall submit to SDHS, in a format prescribed by SDHS, specific identifying information such as, but not limited to, name, SSN, date of birth, on every applicant for the AFDC, Food Stamp, Refugee Demonstration Project, or Refugee/Entrant Cash Assistance programs for the purpose of operating IEVS.
- .212 The CWD shall input applicant data into IEVS at the first available opportunity following the CWD's receipt of the necessary information from the applicant, but no later than five working days after the signed statement of facts is completed.
- .213 The CWD shall not submit information to IEVS on any applicant who has been determined ineligible, except to the extent that the submission of such information is required under .2 of this section.

.214 Information about individual applicants who cannot provide SSNs at application shall be requested as soon as possible, but no later than the time frame specified in .221 of this section after the CWD is notified of their SSNs.

.22 Recipient Data

.221 Every quarter the CWD shall submit to SDSS, in a format prescribed by SDSS, income and eligibility information on each recipient of AFDC, Food Stamps, Refugee Demonstration Project, and Refugee/Entrant Cash Assistance, for the purpose of operating IEVS. Nonfederally funded cases may be submitted to SDSS in a different format as prescribed by SDSS.

.222 Input for the Payment Verification System will continue to be extracted by SDSS monthly from the county input to the Central Data Base.

.3 Uses of IEVS Information

The CWD shall use information obtained through the IEVS for the purposes of:

- .31 Verifying the applicant's/recipient's eligibility.
- .32 Verifying the proper amount of benefits.
- .33 Determining whether a recipient received benefits to which he/she was not entitled.
- .34 Conducting criminal or civil prosecutions.

.4 IEVS Match Follow-up Time Frames

.41 Applicants.

If the IEVS information is received during the application period, the CWD shall use it, to the extent possible, in making the eligibility determination. However, the eligibility determination shall not be delayed pending receipt of IEVS information if other information establishes the individual's eligibility.

.42 Recipients.

The CWD shall, within the time frames prescribed by federal rule, complete a case action or make an entry in the case record that no case action is necessary.

- 421 Current federal rule prescribes that the IEVS match follow-up shall be completed within 30 days of the date the state agency completes the match.
- 422 Case action shall include review of the information and comparison of it to the case record.
 - (a) For new or previously unverified information received, the CWD shall contact the recipient and/or income source to resolve discrepancies as specified in Section 20-006.54.
 - (b) If the discrepancy warrants reducing benefits or terminating eligibility, the CWD shall send a notice of action in accordance with Division 22.
- 423 Delays in completion of case action may be allowed as specified by federal rule provided that:
 - (a) The reason that the action cannot be completed is because the requested third party verification has not been received in accordance with Section 20-006.543(c); and
 - (b) Action is completed promptly once the third party verification is received, or
 - (c) If third party verification has not been received by the time of redetermination/recertification, the CWD shall take action and make its decision based on available information provided by the recipient and any other information in its possession.
- 424 Current federal rule prescribes that action may be delayed beyond the 30-day time frame on no more than 20 percent of the IEVS case matches.
- 43 The time frames outlined in Section 20-006.4 do not apply to cases which have been closed by the time the data match results are received. The CWD shall identify such situations and pursue claims and other actions.

•5 Verification of IEVS Information

•51 Upon receipt of the IEVS matched data, the CWD shall review and compare the IEVS information against information contained in the case record to determine whether it affects the applicant's or recipient's eligibility or amount of benefits.

•52 Factors to be considered in determining the applicability of the information include: complete and positive match between the IEVS-obtained information and identifying case information, i.e., first, middle and last name, SSN, age and date of birth; agreement with other information contained in the case record or otherwise available to the CWD; and appropriateness of the information in relationship to the known circumstances of the applicant or recipient.

•53 IEVS Information Considered Verified Upon Receipt

•531 IEVS information received directly from the income/benefit source shall be considered verified upon receipt. Such information includes Social Security and SSI benefit information from SSA, AFDC benefit information from another county or state, and unemployment insurance and disability insurance benefits from this or another state.

•532 If the IEVS information is determined to be applicable to case circumstances, the CWD shall take appropriate case action without additional verification/documentation of the information or shall note in the case file that no action is required.

•533 If based on other information available to the CWD, information from a particular income or benefit source is questionable or, if based on past experience, there is reason to doubt the applicability of the IEVS-obtained information, the CWD shall independently verify the information as specified in Section 20-006.54.

•54 IEVS Information Requiring Independent Verification

•541 For IEVS information received from a secondary source which includes wage information reported by EDD, SSA or a wage reporting agency in another state; and unearned income from IRS or FTB; and for IEVS-obtained information which the CWD

If the recipient does not respond to the notification or respondees and is unable to provide sufficient information to resolve the discrepancy, the CMO shall contact the appropriate income or benefit source. Prior authorization from the recipient is not required for such contracts, except when the unearned income source is a financial institution. In those cases, prior authorization is required as outlined in section 7460 (Financial Institution Privacy Act). These cases may be referred to the SIU in accordance with Section 20-003-2.

(a) The written notification shall clearly explain the information the CWD has, its relevance to the individual's eligibility, and what actions the CWD will take in the event the individual fails to take benefit, and what actions the CWD will take in the event the individual fails to respond to the notification.

EXCEPT AS DEEMED IN (d) BELOW, THE CWD SHALL
VERIFY THE INFORMATION BY NOTIFYING THE RECIPIENT
IN WRITING OF THE INFORMATION BY NOTIFYING THE RECIPIENT
IN WRITING OF THE INFORMATION BY NOTIFYING THE RECIPIENT
REQUIRING THAT THE RECIPIENT REFORMATTED AND
REQUESITING THAT THE RECIPIENT RESPOND WITHIN 10
DAYS. THIS NOTIFICATION SHALL NOT REPLACE THE
REQUIRED NOTICE OF ACTION TO REDUCE OR TERMINATE
BENEFITS.

20-006-533, the CWD shaft not terminated, down of
considers questionable in accuracy with section
20-006-533, the CWD shaft not terminated, down of
reduce benefits based on this information until
the information has been independently verified.

(c) When the recipient or appropriate source provides the verification, the CWD shall either take case action (by sending an appropriate notice of action) or shall note in the case record that no action is required.

(d) Nothing in this subsection shall be construed to limit referrals to the SIU. If the SIU chooses to verify the IEVS data by contacting the appropriate income, resource, or benefit source, a written notice to the recipient informing him/her of the IEVS data is not required.

•6 IEVS Recordkeeping and Reporting

•61 The CWD shall maintain records which contain information concerning all denials, discontinuances, and benefit modifications which have resulted from use of IEVS information, including the basis for, and the dollar value of, each action.

•62 The CWD shall report specified information as prescribed by the appropriate state agency for the purposes of determining compliance with IEVS requirements and evaluating the effectiveness of IEVS.

•7 Safeguards

The CWD shall use safeguards in accordance with Section 19-002.1 to protect the confidentiality of taxpayer information.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2; 7 CFR 272.1(c)(2), 272.8, 272.8(a), 272.8(a)(5), 272.8(e), 272.8(e)(1), 272.8(f), 272.8(g), 272.8(g)(1), 272.8(g)(1)(iii), 272.8(j), 272.8(j)(2); 7 CFR 273.2(f)(9)(iii) and (iv); 7 CFR 278.8; 45 CFR 205.50(a)(1)(B); 45 CFR 205.51, 205.55, 205.55(a)(2)(i), 205.55(a)(3), 205.55(a)(4), 205.55(b)(1), 205.55(b)(2), 205.56(a), 205.56(a)(1), 205.56(a)(1)(i), (ii), (iii),

(iv) and (v), 205.56(b)(1), 205.56(b)(2)(ii),
205.60(a) and (b); and 45 CFR 206.10(a)(5)(ii).

Amend Section 20-007.36 to read:

20-007 SPECIAL INVESTIGATIVE UNIT (SIU) (Continued) 20-007

•3 Authority and Responsibility

The SIU shall: (Continued)

- 36 Not be bound by the restrictions placed on eligibility determinations in Section 40-157.322 requiring recipient/applicant permission to contact collateral sources.

Authority Cited: Section 10554, Welfare and Institutions Code.

Reference: Sections 10554 and 10850, Welfare and Institutions Code.

Amend Section 40-103 to read:

40-103 DEFINITIONS AND DESIGNATIONS - GENERAL (Continued) 40-103

•9 IEVS - Means the Income and Eligibility Verification System.
(See Section 20-006.1.)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.51(a).

Amend Section 40-107.7 to read:

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

•7 Social Security Number

- 71 SSNs shall be verifiedconfirmed by viewing SSN cards or SSA's form series DA-702. Any one of the following shall be acceptable evidence if the SSN card or SSA's form series DA-702 is not available:
 - 711 An award letter, Medicare card or a check from the SSA showing the applicant/recipient's name and SSN with the letters A, HA, J, T, or M following the SSN.
 - 712 Other documentation from the SSA upon approval by the Department.
 - 713 When an SSN card or other acceptable evidence is not available, the county shall accept the furnished SSN pending verification of the number through IEVS in accordance with .72 of this section.
 - 714 For those individuals who are unable to provide an SSN, the county shall assist the applicant by referring him/her to the local office of the SSA. This requirement may be met by furnishing the applicant with a referral notice such as the SSA Referral Notice, form MC 194, or by providing the address of the local SSA office.
- 72 All SSNs shall be verified by SSA through IEVS in accordance with Section 20-006.
- 721 The county shall deny the application or discontinue assistance for any individual who fails to cooperate in resolving a discrepancy between the furnished SSN and SSA files in accordance with the requirement of Section 40-105.27. If the individual whose SSN is in question has provided a SSA card or other acceptable evidence of the number or has complied with the requirements of Section 40-105.21?, he or she shall be considered to be cooperating.
- 73 All new cases in which an SSN or an application to SSA for a new or duplicate SSN card has not been provided

and verified as defined in #7 above shall be reviewed at least every 90 days to ensure that the recipient is cooperating as specified in Section 40-105.212. The review period shall commence with the date of application for AFDC. The date of each review shall be documented in the case file.

All ongoing cases shall be examined not later than the next redetermination of eligibility to identify the SSN(s) in the cases which require verification. Those cases in which verification is required shall be verified in accordance with #7 above and, if needed, reviewed at least every 90 days to ensure that the recipient is cooperating in obtaining the verification. The review period shall commence with the date of examination. The date of each review shall be documented in the case file.

Once a recipient has been discontinued for not cooperating, aid may not be granted until the recipient has demonstrated that he/she is cooperating.

.74 In AFDC-FC when there is no identifying information as specified in Section 40-105.251, the case file shall be reviewed at redetermination to determine whether any change occurred that would enable the SSA to issue an SSN. The eligibility worker shall document the date the review was completed and any changes that have occurred. If new information is available, the parent(s), legal guardian, or relative (if now available and cooperating), or the placing agency representative, shall forward the application for an SSN to the SSA.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.52(g).

Amend Section 40-115.22 and adopt new Section 40-115.225 to read:

40-115 THE APPLICATION PROCESS (Continued)

40-115

.2 Steps in the Application Process (Continued)

.22 Exploration of Eligibility

The applicant will be given a Statement of Facts (CA 2) to complete and sign under penalty of perjury. Acceptable evidence must be obtained concerning the linking and nonlinking factors of eligibility. (See each Eligibility Chapter for what is acceptable evidence.) When such evidence does not exist, the applicant's sworn statement under penalty of perjury will be considered sufficient, except in the areas of verification of U.S. citizenship or alienage status and/or medical verification of pregnancy.

.221 (Continued)

.222 (Continued)

.223 (Continued)

.224 (Continued)

.225 Income and eligibility information shall be requested through IEVS and shall be used, to the extent possible, in the determination of eligibility in accordance with the procedures specified in Sections 20-006.2 and 20-006.4. However, the county shall not delay the determination of eligibility pending receipt of IEVS information if other information establishes the individual's eligibility.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.56(a)(1)(iii).

Amend Section 40-131.3(n) and renumber current (n) and (o) to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

•3 (Continued)

(n) The fact that information regarding his/her eligibility will be requested through the automated Income and Eligibility Verification System (IEVS) and will be used to aid in determining their eligibility for assistance.

(n) (Continued)

(o) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.56(a)(1)(ii).

Amend Section 40-157.22 to read:

40-157 PRINCIPLES AND METHODS OF DETERMINING ELIGIBILITY 40-157
(Continued)

.2 Methods of Gathering Evidence (Continued)

.21 (Continued)

.22 When needed in the evidence gathering process, and as evidence of the applicant's consent thereto, a specific consent form, signed by the applicant and, if necessary, by the spouse (by both parents in AFDC when this is possible) shall be obtained for each such contact. The consent form should cover the purpose of the specific contact as well as the individual or agency to be consulted. Form 228, Applicant's Authorization for Release of Information, may be used for this purpose. A signed consent form is not required when public records are used or for the purposes of verifying information obtained through IEVS in accordance with Section 20-006.5.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.56(a)(1)(ii).

Adopt new Section 40-181.123 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY 40-181

.1 (Continued)

.12 (Continued)

.123 All applicants for, and recipients of, assistance shall be notified in writing at the time of application, and at each redetermination that information available through IEVS will be requested, used, and may be verified through collateral contact when discrepancies are found by the CWD, and that such information may affect his or her eligibility and level of benefits.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(2)(iii).

the assistance unit, the number must be submitted to IFVS. However, if the number is not available for submission to IFVS, the assistance unit's eligibility shall not be affected.

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•42 The county shall act on all information received through IEVS in accordance with the procedures specified in Sections 20-006.4 and .5.

45 Determination of Eligibility During Absence From the State, County, or Country

•451 (Continued)

•452 (Continued)

•453 (Continued)

•454 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.55(a)(1), (a)(3), and (b)(2).

Adopt Section 63-061 to read:

63-061 IMPLEMENTATION OF IEVS REGULATIONS 63-061

- 1 The CWDs shall implement the amended or adopted provisions of the IEVS regulations promulgated by Public Law 98-369 as follows:
 - 11 Effective July 1, 1987, these provisions shall apply to all new applicants and to currently certified households on an ongoing basis in accordance with Section 20-006.2.
- 2 This order implements changes to Sections 63-102, 201.3, 300.2, 300.54, 300.55, 300.59, 404, 503.44?, and 504.6.

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2; 7 CFR 272.1 and 272.8; and 7 CFR 273.2 and 273.6.

Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

i. (Continued)

(1) (Continued)

(2) "IEVS" means the Income and Eligibility Verification System (see Section 20-006.1).

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) (Continued)

(67) (Continued)

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2.

Adopt Section 63-201.316 and amend Section 63-201.34 to read:

63-201 GENERAL TERMS AND CONDITIONS (Continued)

63-201

•3 Disclosure (Continued)

•31 (Continued)

•316 Persons directly connected with the administration or enforcement of the programs which are required to participate in IEVS as specified in Section 20-006 to the extent the Food Stamp Program information is useful in establishing or verifying eligibility or benefit amounts under those programs.

•32 (Continued)

•33 (Continued)

•34 Any of the persons specified in Sections 63-201.311 - 3156 who receive food stamp case file information, shall adequately protect this information against disclosure to unauthorized persons or for purposes not specified in this section. In addition, information received through the IEVS shall be protected from unauthorized disclosure as required by regulations. Information released to the CWD by the Internal Revenue Service shall be subject to the safeguards specified in Section 19-002.2.

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 272.1.

Adopt new Section 63-300.22 and renumber current Sections 63-300.22 and .23 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.2 Application Form and Form Deviation (Continued)

.22 All applicants for, and recipients of, food stamp benefits shall be notified in writing at the time of application, and at each recertification, that information available through IEVS will be requested, used, and may be verified through collateral contact when discrepancies are found by the CWD, and that such information may affect the household's eligibility and level of benefits.

.223 (Continued)

.234 (Continued)

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2.

Amend Sections 63-300.542 and .544 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.54 Sources of Verification (Continued)

.542 Collateral Contacts

A collateral contact is a verbal confirmation of a household's circumstances by a person outside the household. The collateral contact may be made either in person or over the telephone. The acceptability of a collateral contact shall not be restricted to a particular individual but may be anyone that can be expected to provide an accurate third-party verification of the household's statements. Examples of acceptable collateral contacts are employers, landlords, social services agencies, migrant service agencies and neighbor of the household.

Systems of records Data sources such as those used in IEVS (see Section 20-006.1) to which the Department of Social Services or the county welfare department CWD has routine access are not considered collateral contacts and, therefore, need not be designated by the household. Examples of such record systems are the Beneficiary Data Exchange fBENEX) and the State Data Exchange fSDX) and records of any other agency where a routine access agreement exists (such as records from the Employment Development fEDD)).

.543 (Continued)

.544 Discrepancies

Where unverified information from a another source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination of eligibility or benefits. If the unverified information is received through IEVS, the CWD shall obtain verification in accordance with Section 20-006.543.

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(f)(4) and (f)(9).

Amend Section 63-300.55 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.55 Responsibility for Obtaining Verification

The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information, except as provided in Sections 63-300.533a. and b. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The EW shall accept any reasonable documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application. If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner, or the household has presented insufficient documentation, the EW shall either offer assistance to the household in obtaining the documentary evidence, except as otherwise stated in this section, or shall use a collateral contact or home visit. The EW shall not require the household to present verification in person at the food stamp office.

Whenever documentary evidence is insufficient to make a determination of eligibility or benefit level or cannot be obtained the EW may require either a collateral contact or home visit. The EW shall rely on the household to provide the name of any collateral contact with the exception of verifying IEVS-obtained information as specified in Section 20-006.5. The household may request assistance in designating a collateral contact. The EW is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the EW shall either ask the household to designate another collateral contact or substitute a home visit. The county welfare department is responsible for obtaining verification from the acceptable collateral contacts. (Refer to Section 63-300.542)

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(f)(4) and (9).

Adopt Section 63-300.59 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.59 Verification of Eligibility Through IEVS

.591 Income and eligibility information shall be requested through IFVS and shall be used, to the extent possible, in the determination of eligibility in accordance with the procedures specified in Sections 20-006.2 and 20-006.4. However, the county shall not delay the determination of eligibility pending receipt of IEVS information if other information establishes the individual's eligibility.

.592 The county shall verify the eligibility and benefit level for each applicant for and recipient of aid through IEVS by:

(a) Submitting applicant information to IEVS as specified in Sections 20-006.211 and .212.

(b) Requesting on a quarterly basis income and eligibility information through IFVS for recipients in accordance with Section 20-006.22; and

(c) Including, for the purposes of (a) and (b) of this section, any other individuals whose income and resources are considered in determining the amount of assistance to the extent that the county collects the SSN of such individuals.

(1) For instance, if the county obtains the SSN of an ineligible alien parent living with the household, the number must be submitted to IEVS. However, if the number is not available for submission to IEVS, the household unit's eligibility shall not be affected.

•593 The county shall act on all information received through IEVS in accordance with the procedures specified in Sections 20-006.4 and .5.

Authority Cited: Section 18004, Welfare and Institutions Code.

Reference: 7 CFR 273.2(f)(9).

Amend Section 63-301.541(c) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

•5 Expedited Service (Continued)

•54 Special Procedures for Expediting Service (Continued)

•541 (Continued)

(c) Households entitled to expedited service shall be subject to the social security number provisions of Section 63-404.~~‡2~~

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.6.

Amend Section 63-404 to read:

63-404 SOCIAL SECURITY NUMBERS

63-404

- 1 Applicant or recipient households shall provide the CWD with the social security number (SSN) of each household member or shall provide SSSS approved documentation of application for an SSN at the Social Security Administration provide verification of application for an SSN prior to certification. The CWD shall explain to applicants and recipients that refusal or failure without good cause to provide or apply for an obtain SSN shall result in disqualification of the individual for whom the SSN is not obtained in accordance with Section 63-404.4. The CWD shall send the household a notice of adverse action explaining the effect of the disqualification on the eligibility and allotment of the remaining household members in accordance with Section 63-504.261. If individuals have more than one number, all numbers shall be required.
- 11 For those individuals who provide SSNs prior to certification, recertification, or at any office contact, the CWD shall record the SSN and verify in accordance with Section 63-404.6.
- 12 Household members who do not have an SSN and who apply for an SSN in accordance with Section 63-404.3 or provide good cause for failure to apply shall be allowed to participate in accordance with Section 63-404.3 for 30 days from the first day of the first full month of participation pending receipt of an SSN.

•2 Exemption for Expedited Processing Applicants

- 21 Households entitled to expedited service shall not be required to furnish or apply for an social security number SSN until after they have received their first allotment. However, these households shall be required to furnish or apply for an SSN before their next issuance in accordance with 63-301.543 and .544. Household members who do not have an SSN but who apply for an SSN in accordance with Section 63-404.3 shall be allowed to participate for 30 days from the first day of the first full month of participation pending receipt of the SSN.
- 3 Obtaining the Social Security Number

- 31 Whenever an individual indicates he/she does not have an assigned social security account number SSN, or is otherwise unable to provide one, the household member shall complete the application for social security number fSSNst provided by the CWD, and apply directly to the Social Security Administration (SSA) directly.
- 32 The CWD shall inform the household member where to apply and what verification information will be needed.
- 33 In the event the application is not processed within the 30-day period described in 63-404-4v, the CWD shall suggest inform that the household member ask for that proof of application from the SSA will be required prior to certification.
- 34 Once the household member has filed an application for an SSN and continues to meet all other eligibility requirements, that member shall be permitted to continue to participate pending notification of the CWD through IEVS of the household member's verified SSN.

•4 Failure to Comply

- 41 If the CWD determines that a household member required to provide an SSN has refused to provide it, or at the end of the 30-day period allowed in 63-404v has failed without good cause to provide either or apply for an SSN or a receipt from SSA indicating that he/she has applied for an SSN, that individual shall be ineligible to participate until he/she complies. This disqualification will apply only to the individual for which the SSN is not provided and not to the entire household.
- 42 Income of the disqualified individual shall be treated as outlined in Section 63-502.134. Resources of the disqualified individual shall be treated as outlined in Section 63-501.79.

•5 Good Cause Determination

- 51 In determining if good cause existed for failure to comply with the SSN requirement to apply for or provide the CWD with an SSN, the CWD shall at least consider information provided by the household member, and SSA the Social Security Administration. Documentary evidence or collateral information that the household member has applied for the number an SSN or made every effort to supply SSA with the necessary information to

complete an application for an SSN shall be considered good cause for not complying timely with this requirement.

•511 Good cause does not include delays due to illness, lack of transportation, or temporary absences.

•52 If the household member(s) can show good cause why an application for an SSN has not been obtained completed in a timely manner, that household member shall be allowed to participate for one additional 30-day time period* month in addition to the month of application. Thereafter, for a household member to continue to participate, good cause shall be shown monthly.

•53 If the household member applying for an SSN has been unable to obtain the documents required by SSA, the CWD should make every effort to assist the individual in obtaining these documents.

•26 Acceptable Verification

•261 The SSNs reported by the household shall be verified by SSA in one of the following ways*through IEVS .

•261.1 Matching the reported SSN with information supplied by the Social Security Administration such as SSA computer tapes or printouts* or

•261.2 Observing the household member's social security card or any official document containing the SSN* if the individual has no social security card or other official document containing the SSN* or if the social security number appears questionable the county shall verify the number by matching it with SSA tapes*.

•261.3 Matching the reported SSN with a previously verified AFAP, Medi-Cal or other public assistance case documents*.

•262 The application for an SSN shall be verified by observing obtaining the SDSS approved documentation of application from SSA.

•262.1 SDSS* approved documentation includes, but is not limited to, MC-194, or SSA-5028.

•263 Certification for or issuance of benefits shall not be delayed to an otherwise eligible household solely

because an SSN has not been verified even if the 30-day processing period has not expired.

- 264 Once an SSN has been verified through IEVS, the EW shall annotate the casefile accordingly to prevent the need for future reverification.

• 67 Ending Disqualification

The disqualified household member may become eligible upon providing the CWD with his/her SSN, providing verification of application for an SSN, or showing good cause why an application for an SSN cannot be completed.

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(f)(1)(b), and 273.6(a), (b), (c), and (d).

Amend Section 63-503.442 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS 63-503
(Continued)

.4 Households with Special Circumstances (Continued)

.44 (Continued)

.442 Members Excluded for Other Causes

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being ineligible aliens or because of disqualification for refusal or failure without good cause to obtain apply for or provide an SSN shall be determined as follows: (Continued)

Authority Cited: Section 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.6(a) and (b).

Repeal Section 63-504.614:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
 ELIGIBILITY (Continued)

63-504

.6 Recertification of all Households (Continued)

.61 General Requirements (Continued)

~~63-504.615~~ Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in Section 63-484-2.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code; and 7 CFR 273.2(f)(3).

SUBMITTED FOR REVIEW

MAY 07 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JUN 5 1987

Office of Administrative Law

For use of Office of Adm Law

FACE SHEET

(See Instructions on Reverse)

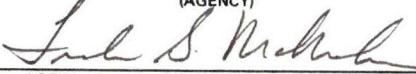
RDB #0586-25

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)



AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 4-30-87

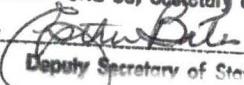
FILED

In the office of the Secretary of State
of the State of California

JUN 05 1987

At 4:41 o'clock P.M.

MARCH FONG EU, Secretary of State

By 
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE

445-0313

2. Type of filing, (check one) 30-day Review Emergency

Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

22

SECTIONS ADOPTED:

Title _____ MPP SECTIONS AMENDED: 80019(f), 80065(i), 87019(e), 87404(e) & (f), 87510(f), (101170(f), 101216(i) and 102370.1(a).

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption
 within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL: _____

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL: _____

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp)	<input type="checkbox"/> Building Standards Commission (Attach approval)
<input type="checkbox"/> State Fire Marshall (Attach approval)	<input type="checkbox"/> Department of Finance (Attach properly signed Std. 399)
<input type="checkbox"/> Other _____	(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER
August 1, 1986

b. DATE OF FINAL AGENCY ACTION
April 30, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))
2/24/87 through 3/11/87

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.

b. Effective upon filing with the Secretary of State.

c. Effective on _____ as required or allowed by the following statute(s): _____

d. Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.

Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.

Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)

b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).

Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).

Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.

Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
- Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
- Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.

Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.

b. Provide the date on which the regulatory agency adopted the regulatory changes.

c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.

Part 9. Effective Dates — check one of the following:

- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
- An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
- If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
- If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
- If an effective date later than specified above is requested, provide the date.

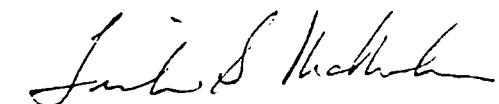
FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Until April 5, 1984, a first conviction for a traffic infraction (the least serious class of traffic offenses) was punishable by a fine of no more than \$50. Thus, the purpose of the \$50 figure in the Criminal Record Clearance regulations is to exclude from consideration first convictions for what the Vehicle Code considers the most minor traffic offenses. The purpose of the proposed regulation is to provide for consideration of crimes other than that which the Vehicle Code considers a minor traffic violation. The change allows consistency with the Vehicle Code as the amount of the fine changes without changing the regulations.

For clarity, the \$50 or less figure is being retained in the regulations for those crimes committed before April 5, 1984 when the amount became \$100. Also, this change is consistent with statutory language governing family day care homes relating to criminal records (Health and Safety Code Section 1597.59). This law became effective January 1, 1987. Therefore, new regulatory changes for family day care homes are being included in these regulations.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 80019(f), 87019(e), 87404(f), and 101170(f)

Specific Purpose:

These sections of the regulations, pertaining to criminal record clearance, are being amended to indicate the amount of the fine consistent with the Vehicle Code for a minor traffic infraction. Changes in the Health and Safety Code sections for Section 87404(f) reference the Residential Care Facilities for the Elderly Act passed in 1985. (In regulation and handbook.)

Factual Basis:

The proposed regulations have been amended to provide for consideration of convictions of crimes other than that which the Vehicle Code considers a minor traffic violation. The change allows consistency with the Vehicle Code as the amount of the fine changes without changing our regulations. Also, this is consistent with statutory language governing family day care homes relating to criminal records (Health and Safety Code Section 1597.59). Section 42001 of the Vehicle Code has been in existence since 1959 and the amount of the fine was \$50 at that time. Any minor traffic violation fine before 1959 would not be considered. However, for clarity the \$50 or less figure is remaining in the regulation for those crimes committed before April 5, 1984 when the \$100 figure became effective.

Changes After Public Hearing

Sections 80065(i)(1), (2), and (2)(A), 87404(e), 87510(f)(1), (2), and (2)(A), and 101216(i)(1), (2), and (2)(A), and 102370.1(a) were added following public hearing. It was determined that these additional regulations pertain to the Fine for Minor Traffic Violation regulations and are similar to those which were proposed at the public hearing on September 16, 1986. The Department has determined that these regulations are sufficiently related to the original material. In compliance with Government Code Section 11346.8 the Department has made the additions available to the public for 15 days.

Sections 80065(i)(1), (2), and (2)(A), 87404(e), 87510(f)(1), (2), and (2)(A) and 101216(i)(1), (2), and (2)(A)

Specific Purpose:

These sections of the regulations refer to the \$50 figure for minor traffic violation. These sections were inadvertently omitted when the regulations went to public hearing on September 16, 1986. Change in Health and Safety Code reference in Section 87404(e) reflect the Residential Care Facilities for the Elderly Act passed in 1985.

Factual Basis:

These regulations are being amended to be consistent with the changes made in Sections 80019(f), 87019(e), 87404(f), and 101170(f).

Section 102370.1(a)

Specific Purpose:

This section is being amended to delete the \$50 reference to a minor traffic violation and to add in its place the reference to Health and Safety Code Section 1597.59(b); and to provide as handbook information statutory language defining "a traffic infraction." This was not in law at the time of public hearing.

Factual Basis:

Currently Health and Safety Code Section 1597.59(b) provides that \$50 is the maximum fine for a first conviction of a minor traffic violation which need not be reported upon application for a family day care license. However, Assembly Bill 3873, Statutes of 1986, amends Health and Safety Code Section 1597.59(b) effective January 1, 1987, to reflect that the fine for a first conviction of a minor traffic infraction is as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. This Vehicle Code section defines a minor traffic infraction as a fine not exceeding one hundred dollars.

By deleting the \$50 reference and replacing it with the Health and Safety Code reference, any time the Vehicle Code raises the maximum fine for the least serious types of traffic violation, this regulation will maintain consistency with the Vehicle Code at all times.

c) Identification of Documents Upon Which Department Is Relying

Section 42001(a)(1) of the California Vehicle Code.

d) Testimony Summary and Response

These regulations were considered at public hearings on September 16, 17 and 18, 1986, Item #3. There were no oral or written comments presented concerning these regulations.

e) Local Mandate Statement

The regulations do not impose a mandate on local agencies nor on local school districts. There are no state mandated local costs in these regulations that require reimbursement under Section 17500 et seq. of the Government Code because implementation of these regulations will not result in any additional costs.

f) Statement of Potential Cost Impact on Private Persons or Businesses

The Department of Social Services finds that the adoption of these regulations will result in no cost impact on private persons or businesses.

g) Small Business Impact Statement

The Department of Social Services finds that the adoption of these regulations will not have a significant adverse economic impact on small businesses.

h) 15-Day Renotice Statement:

A 15-day renotice and complete text of changes made to regulations were made available following the public hearing to all interested persons who submitted comments during the public comment period, and to those persons who requested notification of the availability of such changes. These notices were made available on February 24, 1987 in compliance with Government Code Section 11346.8(c) and provided a 15-day period for public comments concerning the changes to be submitted. No written statements or arguments relating to the changes were received during this public comment period which ended at 5:00 p.m., March 11, 1987.

UPDATED INFORMATIVE DIGEST

Current regulations pertaining to criminal record clearances exclude from consideration first convictions for what the Vehicle Code considers the most minor traffic offenses. Until April 5, 1984, a first conviction for a traffic infraction was punishable by a fine of no more than \$50. Current regulations contain this \$50 figure. However, the Vehicle Code has been amended, effective April 5, 1984, to raise the \$50 figure to \$100, so a person could be fined up to \$100 for a first infraction. Proposed regulations amend those sections of the regulations pertaining to criminal record clearance in Chapters 1, 7.5, and 8 of Division 6 and Chapters 1, 2, and 3 of Division 12, to be consistent with the Vehicle Code as the amount of the fine for a minor traffic infraction changes without changing the regulations.

Amend Section 80019(f) first paragraph only to read:

80019 CRIMINAL RECORD CLEARANCE (Continued)

80019

(f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, the licensing agency shall take the following actions: (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1522 and 1564, Health and Safety Code and Section 42001, Vehicle Code.

Amend Sections 80065(i)(1), (2), and (2)(A) to read:

80065 PERSONNEL REQUIREMENTS (Continued)

80065

(i) Pending receipt of a criminal record transcript as specified in Section 80019, and prior to employment or at initial presence in the facility all employees and volunteers determined by the licensing agency to require criminal record clearance shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:

- (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation for which the fine was \$50 or less as specified in Section 80019(f).
- (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violations for which the fine was \$50 or less as specified in Section 80019(f).
 - (A) If a person has been convicted of a crime other than a minor traffic violation for which the fine was \$50 or less as specified in Section 80019(f), he/she shall also acknowledge that his/her continued employment is conditioned on approval of the licensing agency.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1522, 1531, and 1562, Health and Safety Code and Section 42001, Vehicle Code.

Amend Section 87019(e) first paragraph only to read:

87019 CRIMINAL RECORD CLEARANCE (Continued)

87019

(e) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, the licensing agency shall take the following actions: (Continued)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1522 and 1531, Health and Safety Code and Section 42001, Vehicle Code.

Amend Section 87404(e) to read:

87404 CRIMINAL RECORD CLEARANCE (Continued)

87404

(e) If the criminal record transcript of any of the persons specified in Health and Safety Code Section ~~4522fet~~ 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, the licensing agency shall take the following actions specified in Health and Safety Code Section ~~4522fet~~ 1569.17(c). (Continued)

(1) (Continued)

[(2) Section ~~4522fet~~ 1569.17(c) of the Health and Safety Code provides in part: (Continued)]

H
A
B
D
O
R

Authority cited: Section ~~4522~~ 1569.30, Health and Safety Code.

Reference: See also 4522 Health and Safety Code Section 42001, Vehicle Code.

Amend Section 87404(f) first paragraph only to read:

87404 CRIMINAL RECORD CLEARANCE (Continued)

87404

(f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section ~~1522f(b)~~ 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, and an exemption pursuant to Section 87404(g), has not been granted, the licensing agency shall take the following actions: (Continued)

Authority Cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Section ~~1522~~ 1569.17, Health and Safety Code and Section 42001, Vehicle Code.

Amend Sections 87510(f)(1), (2), and (2)(A) to read:

87510 PERSONNEL REQUIREMENTS - GENERAL (Continued) 87510

(f) Pending receipt of a criminal record transcript, as specified in Section 87404, and prior to employment or at initial presence in the facility, all employees and volunteers determined by the licensing agency to require criminal record clearances shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:

- (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation for which the fine was \$50 or less as specified in Section 87404(e).
- (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violation for which the fine was \$50 or less as specified in Section 87404(e).
- (3) If a person has been convicted of crime, other than a minor traffic violation for which the fine was \$50 or less as specified in Section 87404(e), he/she shall also acknowledge that his/her continued employment or presence in the facility is conditioned on approval of the licensing agency.

Authority Cited: Section ~~4530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~4501~~ 4522, ~~4530~~ 4531 and ~~4532~~ 1569.17, 1569.30 and 1569.31, Health and Safety Code and Section 42001, Vehicle Code.

Amend Section 101170(f) first paragraph only to read:

101170 CRIMINAL RECORD CLEARANCE (Continued)

101170

(f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1596.871(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, the licensing agency shall take the following actions:
(Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Section 1596.871, Health and Safety Code and Section 42001, Vehicle Code.

Amend Sections 101216(i)(1), (2), and (2)(A) to read:

101216 PERSONNEL REQUIREMENTS (Continued)

101216

(i) Pending receipt of a criminal record transcript as specified in Section 101170, and prior to employment or at initial presence in the facility all employees and volunteers determined by the licensing agency to require criminal record clearance shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:

- (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation for which the fine was \$50 or less as specified in Section 101170(f).
- (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violations for which the fine was \$50 or less as specified in Section 101170(f).
- (A) If a person has been convicted of a crime other than a minor traffic violation for which the fine was \$50 or less as specified in Section 101170(f), he/she shall also acknowledge that his/her continued employment is conditioned on approval of the licensing agency.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81 and 1596.871, Health and Safety Code and Section 42001, Vehicle Code.

Amend and renumber Section 102370.1(a) to read:

102370.1 EXEMPTION TO CRIMINAL RECORD CLEARANCE
REQUIREMENTS

102370.1

(a) If it is found that the applicant or any other person residing at or regularly in the home during the hours of care, has ever been convicted of a crime other than a minor traffic infraction violation involving a fine of \$59 or less as specified in Health and Safety Code Section 1597.59(b), the application for licensure shall be denied or the license shall be revoked, unless (1) or (2) below apply:

(1) Health and Safety Code Section 1597.59(b) provides:

The applicant and each person described by subdivision (b) of Section 1596.871 has signed and submitted a statement under penalty of perjury that he or she has never been convicted of a crime other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code.

Paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code states:

(A) By a fine not exceeding one hundred dollars (\$100).

(1) (Continued)

(2) (Continued)

(3) (Continued)

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Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1597.59(b) and 1596.871, Health and Safety Code and Section 42001, Vehicle Code.

87-0519-04
(See Instructions on Reverse)STATE OF CALIFORNIA
STD Form 400 (Rev. 8/85)

SUBMITTED FOR REVIEW

MAY 19 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JUN 15 1987

Office of Administrative Law

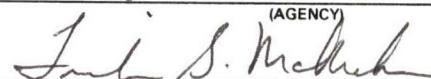
For use of Office of Adm Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services


(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 5-13-87

FILED

In the office of the Secretary of State
of the State of CaliforniaJUN 15 1987
At 12 o'clock M.
MARCH FONG EU, Secretary of State
By 
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE		TELEPHONE
Rosalie Clark	Chief, Regulations Development Bureau		445-0313
2. Type of filing, (check one)	<input checked="" type="checkbox"/> 30-day Review	<input type="checkbox"/> Emergency	<input type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below) <input type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction			
3. a. Specify California Administrative Code title and sections as follows:	SECTIONS ADOPTED: Title 22 SECTIONS AMENDED: 80001, 98022, 80026, 80070, 80088, 83088, 85066, 87022, 87026, 87061, 87070, 87072, 87088, 87138, 87206 SECTIONS REPEALED:		
b. The following sections listed in 3a contain modifications to the text originally made available to the public:	80088, 87088, 87206		
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)	<input type="checkbox"/> prior to the emergency adoption <input type="checkbox"/> within 120 days of the effective date of the emergency adoption of the above-referenced regulations.		
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date(s) of prior submittal(s) to OAL:		
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, if yes, give date statement was submitted to OAL		
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)	<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp) <input type="checkbox"/> Building Standards Commission (Attach approval) <input type="checkbox"/> State Fire Marshall (Attach approval) <input type="checkbox"/> Department of Finance (Attach properly signed Std. 399) <input type="checkbox"/> Other _____		
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER November 28, 1986	b. DATE OF FINAL AGENCY ACTION May 13, 1987	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) April 10, 1987 to April 27, 1987	

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- Effective 30th day after filing with the Secretary of State.
- Effective upon filing with the Secretary of State.
- Effective on _____ as required or allowed by the following statute(s): _____
- Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
 - b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
 - a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
 - b. Provide the date on which the regulatory agency adopted the regulatory changes.
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FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

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- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

Amend Section 80001 to include new (a)(18) and renumber Sections 80001(a)(18) through (44) to read:

80001 DEFINITIONS

80001

(a) The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 2 through 7 and Chapter 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category. (Continued)

(18) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.

(1819) (Continued)

(1820) (Continued)

(1821) (Continued)

(1822) (Continued)

(1823) (Continued)

(1824) (Continued)

(1825) (Continued)

(1826) (Continued)

(1827) (Continued)

(1828) (Continued)

(1829) (Continued)

(1830) (Continued)

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(3536) (Continued)

(3637) (Continued)

(3738) (Continued)

(3839) (Continued)

(3940) (Continued)

(4041) (Continued)

(4142) (Continued)

(4243) (Continued)

(4344) (Continued)

(4445) (Continued)

(4546) (Continued)

(4647) (Continued)

(4748) (Continued)

(4849) (Continued)

(4950) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1503, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1525, 1525.5, 1526, 1527, 1529, 1530, 1530.5, 1531, 1533, 1534, 1537, 1550, 1551, and 11834.11, Health and Safety Code; Section 11006.9, Welfare and Institutions Code.

Amend Section 80022 to read:

80022 PLAN OF OPERATION (Continued)

80022

(b) The plan and related materials shall contain the following:
(Continued)

(12) Arrangements for safeguarding clients' cash resources, personal property, and/or valuables if applicable.

A statement whether or not the licensee will handle the clients' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Sections 80025 and 80026.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1528, and 1531, Health and Safety Code.

Amend Section 80026 to read:

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)

80026

(j) Cash resources totalling an amount in excess of \$500, entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1531, and 1560, Health and Safety Code.

Amend Section 80070 to read:

80070 CLIENT RECORDS (Continued)

80070

(b) Each record shall contain information including, but not limited to the following: (Continued)

(12) An account of the client's cash resources, personal property, and valuables entrusted as specified in Section 80026.

Authority Cited: Section 1530. Health and Safety Code.

Reference: Sections 1501. 1528. and 1531. Health and Safety Code.

Amend Section 80088 to read:

80088 FIXTURES, FURNITURE, EQUIPMENTS, AND SUPPLIES 80099

(a) A comfortable temperature for clients shall be maintained at all times.

- (1) The licensee shall maintain the temperature in rooms that clients occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).
 - (A) In areas of extreme heat the maximum shall be 20 degrees F (~~±~~ ± 16.6 degrees C) less than the outside temperature.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Amend Section 83088 to read:

83088 FIXTURES, FURNITURE, EQUIPMENT, AND
SUPPLIES (Continued)

83098

(c) The licensee shall provide each child with an individual bed which is equipped with a clean, comfortable mattress, clean linens, blankets, and pillows, as needed, all in good repair. (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Amend Section 85066 to read:

85066 PERSONNEL RECORDS (Continued)

85065

(b) In facilities with a licensed capacity of 56 or more employees, a A dated employee time schedule shall be developed at least monthly, shall be displayed conveniently for employee reference and shall contain the following information for each employee: (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Amend Section 87022 to read:

87022 PLAN OF OPERATION (Continued)

87022

(b) The plan and related materials shall contain the following:
(Continued)

(7) Arrangements for safeguarding children's cash resources,
personal property and/or valuables if applicable.

A statement whether or not the licensee will handle the
children's money, personal property, and/or valuables.
If money, personal property, and/or valuables will be
handled, the method for safeguarding shall be pursuant
to Sections 87025 and 87026.

Authority Cited: Sections 1530 and 1530.5, Health and Safety
Code.

Reference: Sections 1501, 1520, and 1531, Health and
Safety Code.

Amend Section 87026 to read:

87026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)

87026

(j) Cash resources totaling an amount in excess of \$500 entrusted to the licensee and kept in the home shall be kept in a locked and secure location.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code; Section 11006.9, Welfare and Institutions Code.

Amend Section R7061 to read:

R7061 REPORTING REQUIREMENTS (Continued)

R7061

(n) The licensee shall report all changes in family household composition which will affect the services provided children to the licensing agency in writing or by telephone within ten working days. These changes shall include, but not be limited to:

- (1) Any additions to the licensee's family, including when the licensee becomes guardian or conservator for any child or other person.
- (2) The departure of an adult who was providing care to the children.

The arrival or departure of any person, other than the children, residing in the home.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Amend Section 87070 to read:

87070 CHILDREN'S RECORDS (Continued)

87070

(b) Each record shall contain information including but not limited to the following: (Continued)

(17) An account of the child's cash resources, personal property, and valuables entrusted as specified in Section 87026.

Authority Cited: Sections 1530 and 1530.5. Health and Safety Code.

Reference: Sections 1501 and 1531. Health and Safety Code.

Amend Sections 87072 to read:

87072 PERSONAL RIGHTS

87072

(a) Each child shall have personal rights which include but are not limited to the following: (Continued)

(14) To have access to telephones, both to make and receive confidential calls, provided that such calls are not prohibited by court order or by the child's authorized representative, or are not prohibited as a form of discipline. However, such use shall not infringe upon the rights of others, nor tie up the telephone during emergencies. (Continued)

(C) Calls permitted to be prohibited as a form of discipline shall not include calls to the child's authorized representative, or placement agency, or parent(s).

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501, 1531, and 1539, Health and Safety Code.

Amend Section 87088 to read:

87088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)

87088

(b) The licensee shall provide each child with an individual bed which is equipped with a clean, comfortable mattress, clean linens, blankets, and pillows, as needed, all in good repair.

87088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)

87088

(e) The licensee shall maintain a comfortable temperature for children at all times.

(1) The licensee shall maintain the temperature in rooms that children occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).

(A) In areas of extreme heat, the maximum shall be 20 30 degrees F (~~±~~ 16.6 degrees C) less than the outside temperature.

87088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)

87088

(m) All foster family homes, except homes with sprinkling systems, shall have an approved, commercially manufactured and functioning smoke detector installed in the hallway(s) in each sleeping area in the home. The smoke detectors shall be audible in each bedroom or sleeping room.

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Amend Section 87138 to read:

87138 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES OF RESIDENTS (Continued)

87138

(c) (Continued)

(1) Cash resources totaling an amount in excess of \$500 entrusted to the licensee for residents and kept on the facility premises shall be kept in a fireproof safe locked and secure location.

Authority Cited: Section 1530 1569.30, Health and Safety Code.

Reference: Sections 1501, 1531, 1560, 1561, 1569.1,
1569.15, 1569.30, 1569.31, 1569.60, and
1569.61, Health and Safety Code; Section
11006.9, Welfare and Institutions Code.

Amend Section 87206 to read:

87206 MAINTENANCE AND OPERATION (Continued)

87205

(b) A comfortable temperature for residents shall be maintained at all times. (Continued)

(2) The facility shall cool rooms to a comfortable range between 78 degrees F (26 degrees C) and 85 degrees F (30 degrees C), or in areas of extreme heat to 79 30 degrees F less than the outside temperature.

Authority Cited: Section ~~1539~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1584~~ ~~1530~~ ~~1531~~ 1569.1, 1569.30, and 1569.31, Health and Safety Code.

SUBMITTED FOR REVIEW

JUN 23 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JUN 23 1987

For use of Office of Adm Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)



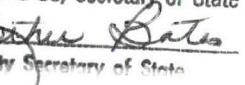
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: May 26, 1987

OAL # 86-224-2E
RDB # 1186-54

FILED

In the office of the Secretary of State
of the State of California

JUN 23 1987
At 4:36 o'clock P.M.
MARCH FONG EU, Secretary of State
By 
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)	TITLE		TELEPHONE
Rosalie Clark	Chief, Regulations Development Bureau		445-0313
2. Type of filing, (check one)	<input type="checkbox"/> 30-day Review	<input type="checkbox"/> Emergency	<input checked="" type="checkbox"/> Certificate of Compliance (Complete Part 4 below)
<input type="checkbox"/> Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)			
<input type="checkbox"/> Nonsubstantive changes with nonregulatory effect <input type="checkbox"/> Printing Error Correction			
3. a. Specify California Administrative Code title and sections as follows:			
Title <u>MPP</u>	SECTIONS ADOPTED: <u>63-064, 63-301.7</u>		
SECTIONS AMENDED: <u>63-102p(8); 300.3; 51.52; 301.6; 301.7; 8; 402.2; 403.3; 406.3; 409.1; 501.521(f); 7.9; 502.13; 14; 503.1.2; 3; 503.44; 45; 504.12; 23; 61; 62; 505.4</u>			
SECTIONS REPEALED: <u>63-501.8</u>			
b. The following sections listed in 3a contain modifications to the text originally made available to the public: <u>63-064; 63-102p(8); 63-301.6; 32(c), (d); 63-402.22; 63-409.1; 63-503.329; 63-503.44; 63-503.45</u>			
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)			
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<input type="checkbox"/> Other _____ (SPECIFY AGENCY)			
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER January 30, 1987		b. DATE OF FINAL AGENCY ACTION May 26, 1987	
		c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) May 7 -- May 22, 1987	

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

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- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on January 5, 1987, and which became effective on February 1, 1987.

Manual of Policies and Procedures, Division 63, Chapters 63-000, 63-100, 63-300, 63-400, and 63-500, Sections:

Amended

63-102p.(8)	63-406.3	63-503.3
63-300.3	63-409.1	63-503.44
63-300.51	63-504.521(f)	63-503.45
63-300.52	63-501.7	63-504.12
63-301.6	63-501.9	63-504.23
63-301.7	63-502.13	63-504.61
63-301.8	63-502.14	63-504.62
63-402.2	63-503.1	63-505.4
63-403.3	63-503.2	

Adopted

Repealed

63-064	63-501.8
63-301.7	

These regulations were presented at public hearing on March 18, 1987. As a result of the public hearing the following sections have been changed.

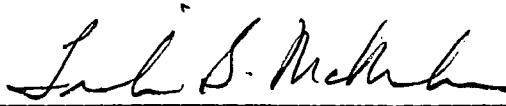
Amended

63-064	63-409.1
63-102p.(8)	63-503.329
63-301.632(c),(d)	63-503.44
63-402.22	63-503.45
63-404	

Adopted

Repealed

63-102c.(2)	None
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LINDA S. McMAHON
Director

May 26, 1987
Date

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

1) Adopt new Section 63-064 to read:

63-064 IMPLEMENTATION OF CATEGORICAL ELIGIBILITY FOR 63-064
PUBLIC ASSISTANCE RECIPIENTS

- 1 The amended provisions specified in Section 63-064.6 shall be effective retroactively to December 23, 1985. Any household that applied for and was denied benefits from that date shall be entitled to restored benefits if it was categorically eligible in accordance with these provisions and:
 - 11 Is otherwise entitled to benefits, and requests a review of its case; or,
 - 12 The CWD otherwise becomes aware that a review is needed.
- 2 The CWD shall send general notices, as prescribed by SDSS, to inform households that they may be entitled to restored benefits as a result of these regulations.
- 3 Restored benefits to entitled households shall be made available in accordance with Section 63-802 back to the date of the food stamp application or December 23, 1985, whichever is later.
- 4 Effective February 1, 1987, the CWD shall implement the amended provisions in Sections 63-064.56 and .67 for all new applications filed on or after that date.
- 5 Effective February 1, 1987, the CWD shall implement the following provisions for continuing cases:
 - 51 Section 63-064.6 shall be implemented at the household's request, at recertification, termination, or whenever the CWD otherwise becomes aware of the household's categorical eligibility.
 - 52 Section 63-064.7 shall be implemented no later than recertification.

•56 The sections affected by the categorical eligibility revisions include:

63-102c.(2), p.(8); 300.515, .518, .523; 301.6, .63, .631, .631(a) and (b), (b)(1) and (2), .632, .632(a) - (d), and .634(a); 301.7, .71, .71, .721, .722, .723, .724, .73, .731 - .733, .74, .741 - .745, .75, .76, .761 and .762, .8, and .9; 403.338; 404, 409.1, .111, and .12; 501.8; 503.11, .211, .231, .321, .322, .329, .329(a), and .422(d)(4); 504.121,

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.121(a), .231(a), 504.611(a) and (b), .624, and .625(b); and 505.4(g) and (h).

.67 The sections affected by other revisions include:

63-402.21, .22, .221; 406.3; 501.521(f); 501.9; 502.13, .131, .14, .141, .142; 503.44, .441, .441(b)(1); 503.443, .444(a) and (b); and 503.45 and .453.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code; and 7 CFR 272.1(g)(78).

2) Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

c. (Continued)

(2) "Categorical Eligibility" means being considered eligible for food stamps, in accordance with Sections 63-301.6 and .7, because of the household's eligibility for public assistance (PA).

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) (Continued)

(67) (Continued)

(78) (Continued)

p. (Continued)

(8) "Public Assistance (PA)" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, Aid to Families with Dependent Children (AFDC), including AFDC for children of unemployed fathers, Aid to the Blind, Aid to the Permanently and Totally Disabled and Aid to Aged, Blind, or Disabled. A PA household is a household in which all members receive PA.

(a) For purposes of determining categorical eligibility, as specified in Section 63-301.7, PA recipients include individuals authorized to receive PA benefits whether or not they are actually receiving a PA payment. This includes recipients whose PA benefits have been suspended or recouped, or those who are entitled to PA benefits but are not paid such benefits because the grant is less than \$10.00.

(b) For purposes of determining categorical eligibility, as specified in Section 63-301.7, PA means AFDC benefits under Title IV-A of the Social Security Act. Any PA households receiving AFDC from a state-only program shall not be considered

categorically eligible to food stamp benefits.
(See Section 63-402.213 for exclusion of SSI/SSP
recipients.)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; and 7 CFR 273.2(j).

3) Amend Section 63-300.3 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.3 Filing, Notice of Right to File and Withdrawal

Households must file food stamp applications by submitting the forms to the food stamp office either in person, through an authorized representative or by mail. The length of time to deliver benefits is calculated from the date the application is filed in the food stamp office designated by the CWD to accept the household's application.

.31 Each household shall be advised of their right to file an application on the same day it contacts the food stamp office during office hours (Section 63-300.32).

.32 The household shall also be advised that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative.

.321 The DFA 285-A2, which contains the penalty of perjury statement, must be signed by one adult household member or authorized representative or a responsible minor when the applicant household is composed entirely of minors and has no adult to act on its behalf.

.33 The CWD shall document the date the application was filed by recording on the application the date it was received by the food stamp office.

.34 Contacting the Food Stamp Office (Continued)

.35 Notice of Right to File (Continued)

.36 Withdrawing Application (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; and 7 CFR 273.2(b).

4) Amend Section 63-300.51 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.51 Mandatory Verification

The CWD shall verify the following information prior to certification for households initially applying:

.511 Gross Nonexempt Income (Continued)

.512 Alien Status (Continued)

.513 Identity (Continued)

.514 Social Security Numbers (Continued)

.515 Residency

The residency requirements of Section 63-401 shall be verified except as provided in Sections 63-300.515a and 63-301.71. Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to: rent or mortgage payments, utility expenses, and identity. (Continued)

.516 Continuing Shelter Expenses (Continued)

.517 Medical Expenses (Continued)

.518 Sponsored Alien

For sponsored aliens, the CWD shall verify the factors of eligibility specified in Section 63-503.49, except as specified in Section 63-301.71. The sponsored alien must provide all verification required by Sections 63-403.32 and .33.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference:

Section 18901, Welfare and Institutions Code;
and 7 CFR 273.2(j)(2).

5) Amend Section 63-300.52 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.52 Optional Verifications (Continued)

.523 Household Size

The size of the household may be verified. All other factors involving household composition shall be verified only if questionable in accordance with Sections 63-300.531 and 301.72. Verification of household size shall be accomplished through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence include, but are not limited to:

- school records
- census records,
- marriage records, or
- any documents which establish identity such as those examples listed in Section 63-300.513.

Any documents which reasonably establish household size must be accepted and no requirement for a specific type of document may be imposed.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; and 7 CFR 273.2(j)(2).

6) Amend Section 63-301.6 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.6 PA Households

Households in which all members are applying for public assistance (PA) shall be allowed to apply for food stamp benefits at the same time they apply for PA benefits. The food stamp eligibility and benefit levels for these households shall be based solely on food stamp eligibility criteria, except as specified in Section 63-301.7. Households, whether jointly processed and/or eligible because of their PA status, shall be certified in accordance with the notice, procedural and timeliness requirements of the food stamp regulations.

.61 Single Interview (Continued)

.62 Verification Procedures (Continued)

.63 Application Processing Standards and Procedures

The CA 1 is the official application for public assistance and is used in conjunction with the CA 2 Statement of Facts. When all members of a household apply for both food stamps and public assistance (PA), the CA 1 shall serve as the control document for the 30-day processing period. PA applicant households not desiring food stamps shall either enter a signed statement to this effect on the CA 1 or check the appropriate box on the CA 2. If a PA applicant household does not check the box marked food stamps on the CA 1 or specifically indicate that they do not wish food stamps, the household's application shall nonetheless be considered a request for both PA and food stamps unless it is determined otherwise during the interview.

.631 In order to determine if a household will be eligible due to its status as a recipient PA household, the CWD shall be permitted to postpone the food stamp eligibility determination within the 30-day processing standard if the household is not entitled to expedited service and appears to be categorically eligible.

(a) If the PA determination is made within the 30-day processing standard and the

household is considered categorically eligible as specified in Section 63-301.7, the CWD shall provide food stamp benefits for the initial month from the date of the food stamp application.

(b) If the PA determination of eligibility is not made by the 30th day, the CWD shall process the application as a Nonassistance (NA) case using all food stamp eligibility and benefit criteria. However, the CWD shall not deny a potentially categorically eligible household until the 30th day.

(1) If the NA case is denied, the Notice of Denial (DFA 377.1) shall inform the household to notify the CWD if its PA benefits are approved.

(2) The CWD shall ensure that the denied application of a potentially categorically eligible household is easily retrievable in the event that PA benefits are subsequently approved. (See Section 63-301.632.)

•632 If any potentially categorically eligible household is denied and later determined eligible to receive PA benefits, the CWD shall provide food stamp benefits using the original application and any other pertinent information occurring subsequent to that application.

(a) The CWD shall not reinterview the household but shall use any available information to update the application and/or mail or make telephone contact with the household or authorized representative to determine any changes in circumstances.

(b) Any changes shall be initialed and the updated application re-signed by the authorized household member or authorized representative.

(c) Benefits for the initial month shall be prorated from the date the PA benefits are paid effective, or the date of the original food stamp application, whichever is later.

(d) The CWD shall act on reevaluating the original application either at the household's request, or when it becomes otherwise aware of the household's PA eligibility. For example, the CWD normally becomes aware when the PA benefits are approved.

•633 (Continued)

•634 For migrant farmworker households, the CWD shall anticipate the amount and date of receipt of the initial PA payment. If the PA payment will not be received until a subsequent month, the CWD shall vary the household's benefit level according to the anticipated receipt of the payment and notify the household (DFA 377.1).

(a) If the amount or date of receipt of the initial PA payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the PA payment shall be handled as a change in circumstances. However, the CWD is not required to send a notice of adverse action if the receipt of the PA grant reduces, suspends, or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced, suspended, or terminated when the grant is received. Termination of the case shall be permitted if the household is not categorically eligible in accordance with Section 63-301.6.

•635 (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 273.2(j) and (j)(1)(iv).

7) Adopt Section 63-301.7 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.7 Categorically Eligible Households

Any household, except those specified in Section 63-301.73, in which all food stamp eligible members receive or are authorized to receive PA benefits, shall be considered eligible for food stamps because of their status as PA recipients.

.71 The eligibility factors which shall be accepted for food stamp eligibility without verification are the resource, gross and net income limits; social security number information; sponsored alien information; and residency.

.72 When determining whether a household is to be considered categorically eligible, the CWD shall verify the following factors, only when questionable, as specified in Section 63-300.53.

.721 The household must contain only food stamp eligible members that are PA recipients as defined in Sections 63-102(p).

.722 The household must meet the definition of household as specified in Section 63-402.

.723 The household must include all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for PA purposes.

.724 The household does not include persons who have been disqualified as specified in Section 63-301.73.

.73 Households shall not be considered categorically eligible if any member of that household:

.731 Is currently disqualified for an intentional Program violation in accordance with Section 63-805;

.732 Fails to comply with the monthly reporting requirements established in Sections 63-504.32; 505.2, .3, and .4; or

- 733 Fails to comply with the work requirements in accordance with Section 63-407.
- 74 The following persons shall not affect the eligibility of an otherwise categorically eligible household:
 - 741 Ineligible aliens as defined in Section 63-403.2;
 - 742 Ineligible students as defined in Section 63-406;
 - 743 SSI recipients as defined in Section 63-102(s);
 - 744 SSN-disqualified persons as defined in Section 63-404;
 - 745 Persons institutionalized in an unauthorized facility as defined in Section 63-402.4.
- 75 For purposes of work registration, the exemptions specified in Section 63-407.2 shall apply to individuals in categorically eligible households. Any individual who is not exempt from work registration is subject to the work requirements specified in Section 63-407.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; and 7 CFR 273.2(j)(2).

8) Renumber and amend Sections 63-301.7 and .8 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.8 GA Households

CWDs shall advise all GA applicant households of their potential eligibility for food stamp benefits and provide these households with food stamp application forms DFA 285-A1 and DFA 285-A2. GA households shall not be considered categorically eligible for food stamp benefits.

.81 CWDs shall allow households in which all members are applying for GA benefits to leave a signed food stamp application DFA 285-A2, which contains, at a minimum, the household's name and address, at the GA office. The GA office shall forward these applications that same day to the appropriate food stamp office for processing. The procedural and timeliness requirements that apply to the non-PA application process shall begin when the food stamp office receives the application. Since there may be a delay involved in the transferring of applications from GA office to food stamp offices, households shall be advised that they may receive faster service if they take the application directly to the food stamp office.

.9 Mixed Food Stamp Households

CWDs may use the joint application processing procedures in Section 63-301.6 for a food stamp applicant household in which some, but not all, members are in the PA filing unit. This decision shall not be made on a case-by-case basis, but shall be applied uniformly to all households of this type in the county. Mixed households shall not be considered categorically eligible for food stamp benefits.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; 7 CFR 273.2(j)(3)(i) and (4).

9) Amend Section 63-402.2 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.2 Nonhousehold and Excluded Household Members

.21 Nonhousehold Members

For purposes of defining a household, the following individuals shall not be included as a member of the household, unless specifically included as a household member under Section 63-402.13. If not included as a member of the household under Section 63-402.13, such individuals shall not be included as a member of the household for the purpose of determining household size, eligibility or benefits level. The income and resources of such individuals shall be handled in accordance with Section 63-503.45. Nonhousehold members who are otherwise eligible may participate in the Food Stamp Program as separate households.

.211 Roomers (Continued)

.212 Live-in Attendants (Continued)

.213 Others (Continued)

.22 Excluded Household Members

The following individuals residing with a household shall be included as a member of the household for the purpose of defining a household under Section 63-402.1. However, such individuals shall not be excluded from the household for the purpose of considered when determining the household's size, for the purpose of assigning a monthly allotment to the household, comparing the household's monthly income with the income eligibility or benefit level, standards, or when determining categorical eligibility in accordance with except for Sections 63-402.223 and 63-503.44 and 63-503.45 as appropriate. Excluded household members shall not participate in the Food Stamp Program as separate households.

.221 Ineligible Aliens

Individuals who do not meet the citizenship or eligible alien status in Section 63-403 or the eligible sponsored alien requirements in Section 63-403.33.

- 222 SSN Disqualified (Continued)
- 223 Intentional Program Violation Disqualified (Continued)
- 224 Workfare Sanctioned (Continued)
- 225 SSI Recipients (Continued)
- 226 Ineligible Students (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; 7 CFR 273.1(b)(1) and (2), and 273.2(j)(2).

10) Amend Section 63-403.3 to read:

63-403 CITIZENSHIP AND ALIEN STATUS (Continued)

63-403

.3 Verification (Continued)

.33 Verification of Sponsored Aliens (Continued)

.338 Verification is required for the information specified in Sections 63-403.331 and .332, except as specified in Section 63-301.71. The CWD shall verify all other information which they have determined to be questionable and which affects household eligibility and/or benefit level in accordance with Section 63-300.53 for verifying questionable information.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; and 7 CFR 273.2(j)(2).

11) Amend Section 63-404 to read:

63-404 SOCIAL SECURITY NUMBERS

63-404

Applicant or recipient households shall provide the CWD with the social security number (SSN) of each household member, or provide SDSS approved documentation of application for an SSN at the Social Security Administration prior to certification. (See Section 63-301.71 for categorically eligible households.) The CWD shall explain to applicants and recipients that refusal to provide or obtain an SSN shall result in disqualification of the individual for whom the SSN is not obtained in accordance with Section 63-404.4. The CWD shall send the household a notice of adverse action explaining the effect of the disqualification on the eligibility and allotment of the remaining household members in accordance with Section 63-504.261. If individuals have more than one number, all numbers shall be required. Household members who do not have an SSN and who apply for an SSN in accordance with Section 63-404.3 shall be allowed to participate for 30 days from the first day of the first full month of participation pending receipt of an SSN.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; and 7 CFR 273.2(j)(2).

12) Amend Section 63-406.3 to read:

63-406 STUDENTS (Continued)

63-406

•3 Ineligible Students

Any student as defined in Section 63-406.1 who does not meet the eligibility criteria of Section 63-406.2 shall be considered an excluded household member. The income and resources of an ineligible student shall be treated in accordance with Section 63-503.45.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 273.1(b)(2) and 273.5(b)(3).

13) Amend Section 63-409.1 to read:

63-409 INCOME AND RESOURCE MAXIMUMS

63-409

•1 Requirements for Participation

Except for categorically eligible households, as specified in Sections 63-301.6 and .7, only Only those households with income and resources which do not exceed the maximum income and resource eligibility standards shall be eligible to participate in the Food Stamp Program, except for categorically eligible households. {See Sections 63-301.6 and .7} The maximum income and resource eligibility standards are promulgated and updated by the USDA, and contained in tables reproduced in Handbook Section 63-1101.

•11 Maximum Income Eligibility Standards

CWDs shall implement the updated maximum income eligibility standards upon their effective date(s). Refer to Handbook Section 63-1101 for the most recent maximum eligibility income standards and their effective date(s).

•111 Maximum Gross Income and Net Income Eligibility Standards

The CWD shall determine the eligibility of all households, except as provided in Sections 63-409.112, and 63-301.6, and 63-301.7, based first on the maximum gross income. If the household is not eligible under this test the application shall be denied. If the household is gross income eligible then the net income eligibility standards reproduced in Handbook Section 63-1101 shall be applied and appropriate denial or approval shall be made. These eligibility determinations shall be made in accordance with Section 63-503.321.

•112 Maximum Net Income Eligibility Standards
(Continued)

•12 Maximum Resource Eligibility Standards

Except for categorically eligible households, the CWD shall deny participation in the Food Stamp Program to any household whose nonexempt resources determined in accordance with Section 63-501, exceed the appropriate

maximum resource eligibility standards specified in
Handbook Sections 63-1101.21 and .22.

•121 (Continued)

•122 (Continued)

Authority Cited: Sections 10553 and 18904, Welfare Institutions
Code.

Reference: Sections 10554 and 18901, Welfare Institutions
Code; 7 CFR 273.2(j), 273.8(a), and 273.9(a).

14) Amend Section 63-501.521(f) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.5 Resource Values (Continued)

.52 Handling of Licensed Vehicles. (Continued)

.521 The entire value of any licensed vehicle shall be excluded if the vehicle meets any of the following conditions: (Continued)

(f) Necessary to transport a physically disabled household member, including an excluded disabled household member whose resources are being considered available to the household, as specified in Section 63-503.44, regardless of the purpose of such transportation. There shall be a limit of one vehicle per physically disabled household member. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. However, a vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle that makes it possible to transport the disabled person.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; and 7 CFR 273.8(h)(1)(vi).

15) Amend Sections 63-501.7 and .9; and repeal .8 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.7 Resources of Nonhousehold Members

The resources of nonhousehold members, as defined in Section 63-402.21, shall be handled in accordance with Section 63-503.45.

.8 Resources of Excluded Household Members

The resources of excluded household members, as defined in Sections 63-402.221, .222, .223, and .224, shall be handled in accordance with Section 63-503.44. The income and resources of excluded household members, as defined in Sections 63-402.225 and .226, shall be handled in accordance with Section 63-503.45.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; 7 CFR 273.2(j), 273.8(a), and 273.9(a).

16) Amend Sections 63-502.13 and .14 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.1 Income Definition (Continued)

- .13 In accordance with Section 63-503.441, the earned or unearned income of the following individuals shall be counted in its entirety as income to the remaining household members.
 - 131 Individuals excluded from participation for committing intentional Program violations as provided in SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.
 - 132 Individuals sanctioned by a CWD while a participating member of a household disqualified for failure to comply with the CWD's Workfare Program requirements.
- .14 The earned or unearned income of the following excluded individuals shall be counted as income to the remaining household members in accordance with Section 63-503.442.
 - 141 Individuals excluded from households for failing to comply with the SSN requirements in accordance with Section 63-404.4.
 - 142 Individuals excluded from households for being an ineligible alien in accordance with Section 63-403.2.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; 7 CFR 273.1(b)(2) and 273.11(c).

17) Amend Sections 63-503.1, .2, and .3 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS 63-503

.1 Month of Application

.11 A household's eligibility shall be determined for the month of application by considering the household's circumstances as of the date of interview, except as specified in Sections 63-402.9 (Strikers), 63-408 (Voluntary Quit), 63-501.6 (Resource Transfers), 63-503.212 (Income Determinations), 63-503.43 (Destitute Households), and 63-301.7 (Categorically Eligible Households). (Continued)

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.2 Determining Resources, Income and Deductions

.21 Prospective Budgeting in the Beginning Months for Households Who Shall be Subject to Retrospective Budgeting

.211 Determining Resources

Except for households determined to be categorically eligible per Sections 63-301.6 and 63-301.7, the household's resources at the time of the interview shall be used to determine the household's eligibility, in accordance with Sections 63-501 and 63-409.12.

.212 (Continued)

.22 (Continued)

.23 Households Subject to Retrospective Budgeting After the Beginning Months

.231 Prospective Eligibility

The CWD shall continue to prospectively determine food stamp eligibility after the beginning months. To make this determination the CWD shall act in

accordance with Sections 63-503.231(a), (b), (c), and for categorically eligible households, Section 63-301.7. The prospective eligibility determination shall determine whether or not a household continues to be eligible for benefits, it does not determine what benefit level a household is entitled to receive. A household is neither eligible for a restoration of benefits nor shall a claim be established against a household for an inaccurate estimate of a household's prospective eligibility. (Continued)

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.3 Calculating Net Income and Benefit Levels (Continued)

.32 Eligibility and Benefits

- 321 Monthly income, as defined in Sections 63-502.11 and 63-503.312 shall be compared to the gross and net monthly income eligibility standard for the appropriate household size to determine eligibility for all households, except as provided in Sections 63-301.6, 63-503.322, and .323. (See Handbook Section 63-1101 for the gross and net monthly income eligibility standards.) (Continued)
- 322 To determine the eligibility of a household with at least one member who is elderly or disabled as defined in Section 63-102(e), the household's net income, as determined by Section 63-503.312, shall be compared to the net monthly income eligibility standard for the appropriate household size. (See Handbook Section 63-1101 for the net monthly income eligibility standards.)
 - (a) For households which are subject to monthly reporting, the CWD shall apply the net monthly income eligibility standards each month during the household's certification period, except as specified in Section 63-301.7. The household's continued eligibility for benefits shall be based on the household's size and income information which the household and the CWD anticipate

for the next issuance month. This determination shall be based on the information reported on and submitted with the most recent CA 7. The CWD shall also consider information which the household reports outside of the normal monthly reporting system. (Continued)

•329 When a household with three or more members is eligible for the program but has a net income which would set its benefit level at zero, the CWD shall deny the household's application on the grounds that its net income exceeds the level at which benefits are issued, unless the benefit level of zero is due to proration, the initial month's benefits are less than \$10, or the household is categorically eligible.

(a) For categorically eligible households as specified in Section 63-301.7, the CWD shall notify the household that it is eligible for zero benefits.

•329 The CWD shall deny the application of an otherwise eligible household with three or more members that has a net income which would set its benefit level at zero. The application shall be denied on the grounds that net income exceeds the level at which benefits are issued unless any of the following occur:

(a) The benefit level of zero is due to proration; or,

(b) The household is categorically eligible as specified in Section 63-301.7. The CWD shall notify these households of their eligibility for zero benefits.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Section 18901, Welfare and Institutions Code; 7 CFR 273.2(j), (j)(2), (j)(2)(v)(F), 273.8(a), 273.9(a), and 273.10(e)(2)(iii).

18) Amend Sections 63-503.44 and .45 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.4 Households with Special Circumstances (Continued)

.44 Treatment of Income and Resources of Excluded Members

The income and resources of Excluded household members, shall be handled in accordance with Sections 63-503.441, .442, and .443.

.441 Household Members Excluded for Intentional Program Violation Disqualification or Workfare Sanction

During the period of time that a household member cannot participate because of disqualification for intentional Program violation or imposition of a sanction while the member was residing in a Workfare Program project area and participating as a member of a household disqualified for failure to comply with the workfare requirements, the eligibility and benefit level of any remaining household members shall be determined as follows:

(a) Income, Resources, and Deductible Expenses

The income and resources of the excluded household member(s) shall continue to be counted in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(b) Eligibility and Benefit Level

The excluded member shall not be included when determining the household's size for the purposes of:

- (1) Assigning a benefit level to the household;
- (2) Comparing the household's monthly income with the income eligibility standards; or

(3) Comparing the household's resources with the resource eligibility limits. The CWD shall ensure that no household's coupon allotment is increased as a result of the exclusion of one or more household members.

•442 Household Members Excluded for SSN Disqualification or Ineligible Alien Status

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being ineligible aliens or because of disqualification for refusal or failure without good cause to obtain or provide an SSN shall be determined as follows:

- (a) Resources (Continued)
- (b) Income (Continued)
- (c) Deductible Expenses (Continued)
- (d) Eligibility and Benefit Level

Such excluded members shall not be included when determining their households' sizes for the purposes of:

- (1) Assigning a benefit level to the household;
- (2) Comparing the household's monthly income with the income eligibility standards;
- (3) Comparing the household's resources with the resource eligibility limits; or,
- (4) Determining the categorical eligibility of the remaining household members in accordance with Section 63-301.7.

•443 Household Members Excluded for SSI Recipient or Ineligible Student Status

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being an SSI recipient or ineligible student shall be determined in accordance with the requirements for nonhousehold members as specified in Section 63-503.45.

•444 Reduction or Termination of Benefits Within the Certification Period

Whenever an individual is excluded within the household's certification period, the CWD shall determine the eligibility or ineligibility of the remaining household members.

- (a) Household Members Excluded for Intentional Program Violation Disqualification (Continued)
- (b) Household Members Excluded for Workfare Sanction, SSN Disqualification, or Ineligible Alien Status (Continued)

•45 Nonhousehold Members

The income and resources of nonhousehold members as specified in Section 63-402.21 and the excluded household members specified in Sections 63-402.225 and •226 shall not be considered available to the household with whom the individual resides. Cash payments from the nonhousehold member to the household shall be considered income under the normal income standards set in Section 63-502.1. Vendor payments, as defined in Section 63-502.2, shall be excluded as income.

•451 (Continued)

•452 (Continued)

•453 Eligibility and Benefit Level

Nonhousehold members, excluded SSI recipients and ineligible students shall not be included when determining the household's size for the purposes of:

- (a) Assigning a benefit level to the household;

- (b) Comparing the household's monthly income with the income eligibility standards;
- (c) Comparing the household's resources with the resource eligibility limits; or
- (d) Determining the categorical eligibility of the remaining household members in accordance with Section 63-301.7.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; 7 CFR 273.1(b)(2); 273.11(c), (c)(1), and (c)(2); 273.11(d)(1) and (d)(3); and 273.2(j)(2)(iii).

19) Amend Sections 63-504.12, .23, .61, and .62 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.1 Certification Periods (Continued)

.12 Additional Requirements for Establishing Certification
Periods for Monthly Reporting Households

.121 Public Assistance and Categorically Eligible
Households (Continued)

(a) If a household initially applies jointly for food stamps and PA benefits, a nonassistance classification shall be assigned if the food stamp application is approved prior to the PA determination being made and the certification period shall be assigned in accordance with Section 63-504.122. When the PA application is approved, the household shall be reclassified as public assistance, but the certification period shall remain as originally assigned. (See Section 63-301.7 for additional procedures for categorically eligible households.)

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.2 Notices of Action (Continued)

.23 Notice of Denial (DFA 377.1)

.231 When an application is denied, the CWD shall provide the household with a written denial notice (DFA 377.1) explaining the basis for the denial. The denial notice shall be provided to the household as soon as the determination is made, but no later than 30 days from the date the application was filed, unless the application was previously pended, as provided in Section 63-301.4.

(a) If a household which is potentially categorically eligible is denied NA food stamps, the Notice of Denial shall inform the household to notify the CWD if its PA benefits are approved. (See Section 63-301.631(b).)

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY (Continued)

63-504

.6 Recertification of All Households

.61 General Requirements

.611 The CWD shall complete the application process and approve or deny a timely application for recertification prior to the end of household's current certification period and shall provide an eligible household with an opportunity to participate by the household's normal issuance cycle in the month following the expiration of the household's certification period.

(a) The joint processing requirements in Section 63-301.6 for PA and categorically eligible households shall also apply to applications for recertification.

(b) If the PA redetermination is not timely completed for categorically eligible households, the food stamp recertification shall not be delayed and must be completed in accordance with Section 63-504.6. Categorical eligibility shall be assumed.

(1) The provisions of Section 63-301.7, for certain eligibility factors, verification provisions, and the benefit determination continue to apply to categorically eligible households at recertification.

(2) If the recertified household is subsequently terminated from PA benefits, the CWD shall follow the procedures specified in Sections 63-503 and 504.123(b).

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.6 Recertification of All Households (Continued)

.62 Process for Recertifying and Action on Timely
Reapplications for Monthly Reporting Households
(Continued)

.624 PA and categorically eligible households that are jointly processed in accordance with Section 63-301.6 shall, to the extent possible, be recertified for food stamps at the same time that their PA eligibility is redetermined. (See Section 63-504.611 for categorically eligible households.) They may be recertified in the month prior to the last month of the certification period in conjunction with the PA redetermination, except that, if the recertification is not completed in that month, it shall be pended and the household shall be provided a notice of expiration in accordance with Section 63-504.251. The recertification shall be completed during the last month of the certification period, as specified in Sections 63-504.621, .622, and .623. When the recertification is completed in the month prior to the last month of the certification period, the new certification period shall begin with the last month of the old certification period.

.625 Households that receive a notice of expiration shall be subject to the verification requirements specified in Section 63-504.3 for information provided on the CA 7, but shall not be subject to the other CA 7 processing provisions contained in Section 63-504.3 in the last month of the certification period since recertification provisions in Section 63-504.6 are in effect in this month. PA households whose recertifications are completed in the month prior to the last month of the certification period shall be subject to all provisions of Section 63-504.3 in that month, except that they shall be provided a DFA 377.1, instead of a DFA 377.4. In addition, all changes reported on the application shall be subject to

the same verification procedures as apply at initial certification, including categorically eligible households, as specified in Sections 63-301.71 and .72.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18901, Welfare and Institutions Code; and 7 CFR 273.2(j), (j)(1)(iv), (j)(2), and (j)(2)(i).

SUBMITTED FOR REVIEW

JUN 13 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JUN 29 1987

Office of Administrative Law

For use of Office of Adm Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

Lis McNeil

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 6/17/87

FILED

In the office of the Secretary of State
of the State of California

JUN 29 1987

At 4:15 o'clock P.M.

MARCH FONG EU, Secretary of State

By *John G. Galt*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

Rosalie Clark

Chief, Regulations Development Bureau

TELEPHONE

445-0313

2. Type of filing, (check one) 30-day Review Emergency Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
 Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:

63-071

SECTIONS AMENDED:

63-102; 63-402.2; 63-407.21; 63-407.22; 63-407.3, .5, .6; 63-408; 63-503.443,

and .45

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption
 within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

<input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp)	<input type="checkbox"/> Building Standards Commission (Attach approval)
<input type="checkbox"/> State Fire Marshall (Attach approval)	<input checked="" type="checkbox"/> Department of Finance (Attach properly signed Std. 399)
<input type="checkbox"/> Other _____	(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

Not Applicable

b. DATE OF FINAL AGENCY ACTION

June 17, 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

Not Applicable

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- Effective 30th day after filing with the Secretary of State.
- Effective upon filing with the Secretary of State. (July 1, 1987)
- Effective on _____ as required or allowed by the following statute(s): _____
- Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- Effective on 7/1/87 (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
 - b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
 - a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
 - b. Provide the date on which the regulatory agency adopted the regulatory changes.
 - c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
 - a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

Adopt Section 63-071 to read:

63-071 IMPLEMENTATION OF THE FOOD STAMP WORK REQUIREMENTS 63-071

The CWDs shall implement the revised provisions of these regulations effective July 1, 1987. The sections affected by these revisions are: 63-1020.(1)(C), 63-402.227, 63-407.21a., 63-407.221(c), 63-407.37, 63-407.51, 63-407.53, 63-407.54, 63-407.551, 63-407.57 and .571, 63-407.61, 63-407.62, 63-407.621(a) and (b), 63-407.621(c)(7), 63-407.622, 63-408, 63-408.11, 63-408.12, 63-408.13, 63-408.15, 63-408.21, 63-408.24, 63-408.41(e), (f) and (h), 63-408.6 and .61, 63-408.62, .621, .622 and .623, 63-503.443, and 63-503.45.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 272.1(g)(82).

Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

p.(1) "Parental Control"

(A) (Continued)

(B) (Continued)

(C) For the purposes of determining failure to comply with the work requirements specified in Section 63-407.4, "parental control" as defined in this section shall apply to persons of any age.

(2) (Continued)

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(d)(2).

Amend Section 63-402.2 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

•2 Nonhousehold and Excluded Household Members

•21 Nonhousehold Members (Continued)

•22 Excluded Household Members (Continued)

•221 Ineligible Aliens (Continued)

•222 SSN Disqualified (Continued)

•223 Intentional Program Violation Disqualified (Continued)

•224 Workfare Sanctioned (Continued)

•225 SSI Recipients (Continued)

•226 Students (Continued)

•227 Work Requirements Disqualified

Individuals disqualified for noncompliance with the work requirements of Section 63-407.4.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(b)(2)(vii).

Amend MPP Section 63-407.21 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

•2 Exemptions from Work Registration

•21 The following persons are exempt from the food stamp work registration requirement and shall not complete Form DE 8435 FS:

a. A person younger than ~~is~~ 16 years of age or a person 60 years of age or older. If a child has his/her ~~is~~ 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.

(1) A person age 16 or 17 who is not the head of the household, or who is attending school, or enrolled in an employment training program on at least a half-time basis is exempt.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(b)(1)(i).

Amend MPP Section 63-407.22 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

•22 Loss of Work Registration Exemptions

•221 (Continued)

(a) (Continued)

(b) (Continued)

(c) If the change is reported by phone or through the mail, the CWD shall be responsible for providing the participant individual with a work registration form.

(1) Participants the individual shall be responsible for returning the completed form to the CWD within 10 calendar days from either the date the form was handed to the household member reporting the change or the date the CWD mailed the form.

(2) If the household individual fails to return the form, the CWD shall issue a notice of disqualification (DFA 377.10) stating that the individual or the household, if the individual is the principal work registrant as defined in Section 63-407.51, is being terminated, but that the household can avoid termination can be avoided by returning the completed form.

Authority Cited: Sections 10553, 10554, and 18902 Welfare and Institutions Code.

Reference: 7 CFR 273.7(b)(2)(i).

Amend MPP Section 63-407.3, .5, and .6 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

•3 CWD Requirements

•31 (Continued)

•32 (Continued)

•33 (Continued)

•34 (Continued)

•35 (Continued)

•36 (Continued)

•37 The CWD shall reimburse participants, including volunteers and applicants, for transportation, child care, or other costs that are reasonably necessary and directly related to participation - up to \$25.00 per participant per month.

•4 (Continued)

•5 Failure to Comply

•51 For purposes of determining the consequences of a registrant's failure to comply with the work registration requirements of Section 63-407 and the voluntary quit provisions of Section 63-408, the CWD shall determine the principal work registrant. The principal work registrant is the household member (including excluded members) who has the greatest source of earned income in the two months prior to the month of violation.

•511 This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the federal minimum wage multiplied by 20 hours.

•512 If no household member has the greatest source of earned income, the household shall designate the principal work registrant.

•513 No person of any age shall be considered the principal work registrant if living under the

parental control, as defined in Section 63-102(p),
of another household member who is:

- (a) Registered for work under the Food Stamp program; or
- (b) Exempt from food stamp work registration under Section 63-407.21c, e, or g.

.522 The ESA shall provide notification to the CWD when it is determined by the ESA that a work registrant has failed without good cause to comply with the requirements of Section 63-407.4. Such notification shall be in writing (Form DE 8863 FS) and shall be provided within five working days of the date such information becomes known to the ESA.

.523 When the CWD is informed by the ESA that a work registrant, principal work registrant has refused or failed without good cause to comply with the requirements of Section 63-407.4, the entire household shall be ineligible to participate in the Food Stamp Program for the period specified in Section 63-407.536.

.54 If the CWD is informed that an individual other than the principal work registrant has refused or failed without good cause to comply with the requirements of Section 63-407.4, that individual shall be ineligible to participate in the Food Stamp Program for the period specified in Section 63-407.56.

.525 If the CWD is informed that a household member who is registered for work under any of the alternate programs specified in Sections 63-407.21c, e, or i, has refused or failed without good cause to comply with a work registration requirement, the CWD shall determine if the requirement is comparable to the food stamp requirements specified in Section 63-407.4.

.551 If the CWD determines that the work registration requirement is comparable, the individual or entire household shall be disqualified if the individual who committed the violation is the principal work registrant in accordance with Section 63-407.536. The household or individual shall be notified of the disqualification as specified in Sections 63-407.54 and 63-408.2.

- (a) An individual or household shall not be disqualified from participation if the

noncomplying member is no longer required to be work registered becomes exempt in accordance with Section 63-407.21a, b, d, f, g, or h.

~~552~~ If the CWD determines that the work registration requirement is not comparable, the household shall not be disqualified. However, the noncomplying member shall lose his/her food stamp work registration exemption under Section 63-407.21c, e, or i and must register for work, if required to do so under Section 63-407.1.

~~536~~ The period of disqualification for a work registrant failing to comply with the requirements of Section 63-407.4, is as follows:

~~5361~~ If the work registrant fails to comply with any requirement of Section 63-407.4, provided eligibility cannot be reestablished pursuant to Section 63-407.6, the disqualification period is two months except as specified in ~~5362~~ below;

~~5362~~ If the work registrant is the primary wage earner principal work registrant and fails to continue suitable employment as specified in Section 63-407.45 because of a voluntary quit without good cause, the disqualification period is three calendar months pursuant to Section 63-408.222.

~~547~~ Within 10 days after the ESA provides notification of the work registrant's failure to comply with the requirements of Section 63-407.4 of determining that the noncompliance was without good cause in accordance with Section 63-407.58, the CWD shall provide the individual or household with a Notice of Disqualification, (DFA 377.10). Such notification shall contain a description of the act of noncompliance, the proposed period of disqualification and shall specify that the individual or household may reapply at the end of the disqualification period. Information shall also be included on the describing the action which can be taken to end or avoid the sanction, and procedures and requirements contained in Section 63-407.6. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.

•5471 Each individual or household has a right to a state hearing to appeal a denial, termination or reduction of benefits due to a determination of nonexempt status, or an ESA determination of failure to comply with the work registration or job search requirements. The Individuals or households can appeal the ESA actions such as the job search category assigned, the number of job search contacts assigned, the ESA refusal to accept an action as a job search contact or refusal to make a finding of good cause. If a state hearing is scheduled, the CWD shall provide sufficient advance notice to permit the attendance of the ESA representative, if it is anticipated that such attendance will be necessary.

•558 Determining Good Cause (Continued)

•6 Ending Disqualification

•61 Following the end of the two-month disqualification period for noncompliance with the work registration and/or job search provisions prescribed in Sections 63-407.1 or 407.8, a disqualified individual or household may apply again to establish eligibility.

•62 If the individual or household is otherwise eligible, eligibility may be established or reestablished within a disqualification period as indicated below:

•621 For those households disqualified for noncompliance with the work registration provisions, eligibility may be reestablished during the disqualification period if the household is otherwise eligible and if the member who caused the disqualification:

{a} Becomes exempt from the work requirement in accordance with Section 63-407.21a, b, d, f, g, or h.

{b} Is no longer a member of the household (although any new household containing this member shall be subject to disqualification for the remainder of the disqualification period); or:

{1} If the household member joins another household as the principal work registrant, the entire new household

is ineligible for the remainder of the disqualification period.

(2) If the member joins another household where he/she is not the principal work registrant, the individual shall be considered an excluded household member.

(c) (Continued)

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(5) (Continued)

(6) (Continued)

(7) If the member refused to comply with an employment and training assignment, the member shall comply with the assignment or another assignment. (Continued)

-622 For those households disqualified for noncompliance with the job search requirements described in Section 63-497-2, eligibility may be reestablished during the disqualification period only if the person who caused the disqualification becomes exempt from the work registration requirements (Section 63-497-2) or is no longer a member of the household (although any new household containing this person shall be subject to disqualification for the remainder of the disqualification period). This means, for example, that if the noncompliant household member secures full-time employment and thereby becomes exempt from the work registration requirement before the two-month disqualification period is over, the disqualification would end at that point.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(d)(1)(ii)(A), 7 CFR 273.1(d)(2), 7 CFR 273.7(g)(1), 7 CFR 273.7(g)(2)(ii), and 7 CFR 273.7(h) and (h)(5).

Amend MPP Section 63-408 to read:

63-408 VOLUNTARY QUIT

63-408

No applicant or participating household shall be eligible for participation in the program when a primary wage earner principal work registrant has voluntarily quit employment without good cause as specified in this section. For the purpose of this section, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours.

•1 Applicant Households

- 11 When a household files an application or reapplication, the CWD shall determine if the primary wage earner principal work registrant who is required to register for full-time work has quit a job without good cause either 60 days before filing an application or when last participating in the Food Stamp Program. The CWD shall process the application within ordinary time frames specified in Section 63-301 and shall not delay benefits pending a voluntary quit or good cause determination.
- 111 (Continued)
- 12 If a determination of voluntary quit is established, the CWD shall then determine if that the member is the household's primary wage earner principal work registrant as defined in Section 63-407.51. For purposes of this section, the primary wage earner shall be that household member age 18 or over who was requiring the greatest amount of earned financial support for the household at the time of the quit. The primary wage earner is determined by comparing the projected earnings of the member who quit employment in the month the voluntary quit occurred as if he/she had not ceased employment against the actual or, if not available, the projected earnings of each remaining household member.
- 13 Upon a determination that the primary wage earner principal work registrant voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-408.4. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period 90 days starting from the date of quit. The household shall be advised of the reason for the denial.

and of its rights to reapply and/or request a state hearing.

•14 (Continued)

•15 The CWD shall inform the applicant of the consequences of the primary wage earner principal work registrant quitting his/her job without good cause.

•2 Participating Households

•21 When the CWD learns that a participating household has lost a source of earned income, the CWD shall determine whether the primary wage earner principal work registrant voluntarily quit a job and whether there was good cause as defined in Section 63-408.4. Benefits shall not be delayed pending this determination.

•22 (Continued)

•23 (Continued)

•24 Individuals who have been disqualified for quitting a job as the principal work registrant will carry the sanction with them if they join a new household as the principal work registrant. The new household will be ineligible for the remainder of the sanction period unless the person who caused the disqualification ends it in accordance with Section 63-408.6.

•3 Exemptions from voluntary quit provisions. (Continued)

•4 Good cause. (Continued)

•41 (Continued)

(a) (Continued)

(b) (Continued)

(c) (Continued)

(d) (Continued)

(e) Acceptance by the primary wage earner principal work registrant of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education preparatory to seeking better jobs or employment,

that requires the primary wage earner principal work registrant to leave employment;

(f) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education preparatory to seeking better jobs or employment in another county or state which requires the household to move and thereby requires the primary wage earner principal work registrant to leave employment;

(g) (Continued)

(h) Acceptance of a bona fide offer of employment of more than 20 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 20 hours which, because of circumstances beyond the control of the primary wage earner principal work registrant, subsequently either does not materialize or results in employment of less than 20 hours a week or weekly earnings of less than the federal minimum wage multiplied by 20 hours.

(i) (Continued)

(j) (Continued)

(k) (Continued)

.42 (Continued)

.5 (Continued)

.6 Ending a Voluntary Quit Disqualification

.61 Following the end of the disqualification period, a household may begin participating in the Program after reapplying and being determined eligible.

.62 Eligibility may be reestablished during the disqualification period and the household shall, if otherwise eligible, be permitted to resume participation if the member who caused the disqualification:

.621 Secures new employment which is comparable in salary or hours to the job which was quit, or

.622 Leaves the household, or

•623 Becomes exempt from the work registration requirements other than the exemptions specified in Section 63-407.21c, e, or i.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.7(n), (1)(vi), and (5)(ii).

Amend Section 63-503.443 as follows:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

•4 Households with Special Circumstances (Continued)

•44 Treatment of Income and Resources of Excluded Members (Continued)

•443 Household Members Excluded for SSI Recipient or Ineligible Student Status or Noncompliance with Work Requirements

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being an SSI recipient or ineligible student or for noncompliance with the work requirements of Section 63-407.4 shall be determined in accordance with the requirements for nonhousehold members as specified in Section 63-503.45.

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(b)(2) and (vii); 7 CFR 273.7(g)(1); and 7 CFR 273.11(d).

Amend Section 63-503.45 as follows:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

•4 Households with Special Circumstances (Continued)

•45 Nonhousehold Members

The income and resources of nonhousehold members as specified in Section 63-402.21 and the excluded household members specified in Sections 63-402.225, and •226, and •227 shall not be considered available to the household with whom the individual resides. Cash payments from the nonhousehold member to the household shall be considered income under the normal income standards set in Section 63-502.1. Vendor payments, as defined in Section 63-502.2, shall be excluded as income. (Continued)

Authority Cited: Sections 10553, 10554, and 18902, Welfare and Institutions Code.

Reference: 7 CFR 273.1(b)(2) and (vii); 7 CFR 273.7(g)(1); and 7 CFR 273.11(d).

SUBMITTED FOR REVIEW

MAY 28 1987

OFFICE OF ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JUN 29 1987

Office of Administrative Law
For use of Office of Adm Law

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

CEP
T

STATE DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

Julie S. McMechan

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 5-19-87

RDB #1186-51

FILED

In the office of the Secretary of State
of the State of California

JUN 29 1987

At 4:48 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Peter Bate*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) 30-day Review Emergency Certificate of Compliance
(Complete Part 4 below)

Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
 Nonsubstantive changes with nonregulatory effect Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

63-065

SECTIONS AMENDED:

63-406.1 and .216; 63-407.21; and 63-502.2(a), (c), (d), and (e).

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

63-502.2c. (4) and 63-502.2e. (1)

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e)) The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

prior to the emergency adoption
 within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

No Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

No Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

Fair Political Practices Commission (Include FPPC approval stamp) Building Standards Commission (Attach approval)
 State Fire Marshall (Attach approval) Department of Finance (Attach properly signed Std. 399)
 Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

December 26, 1986

b. DATE OF FINAL AGENCY ACTION

MAY 28 1987

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

- not applicable -

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. Effective 30th day after filing with the Secretary of State.
b. Effective upon filing with the Secretary of State.
c. Effective on _____ as required or allowed by the following statute(s):
d. Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
 - b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
 - a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).

Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
 - b. Provide the date on which the regulatory agency adopted the regulatory changes.
 - c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
 - a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.*
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on December 29, 1986, and which became effective on February 1, 1987.

Manual of Policy and Procedures, Division 63, Chapter 500,
Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-406.1	63-065	
63-406.216		
63-407.21		
63-502.2(a), (c), (d), and (e)		

These regulations were presented at public hearing on February 11, 1987. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-502.2c.(4)		
63-502.2e.(1)		

Linda S. McMahon
LINDA S. McMAHON

Director

Date

5/19/87

DELEGATED AUTHORITY ORDER

I hereby authorize and designate Rosalie P. Clark, Chief, Regulations Development Bureau as the agency contact person who has authority to make decisions and answer questions regarding this regulation order.



LINDA S. McMAHON
Director

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

Previous regulations as written excluded some students, who would have otherwise been eligible, from participating in the Food Stamp Program due to an excess in household income. In addition students enrolled in post-secondary institutions without a high school diploma or equivalency certificate or students enrolled as Job Training Partnership Act (JTPA) enrollees previously were not eligible to participate in the Food Stamp Program. Adoption of these amendments allowed these students to participate in the Food Stamp Program. In addition, students who do not display an evident mental unfitness are required to provide county welfare department (CWD) staff proof of such unfitness.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

The following are the specific purpose and factual basis for each amendment. They follow in numerical sequence.

1) Section 63-065

Specific Purpose:

The purpose of this language was to provide CWDs with a specific date by which all provisions contained in these regulations are to be implemented. This date may or may not coincide with the effective date of these regulations. However, by providing this direction, departmental reviewing and/or auditing units can easily determine if a county is out of compliance.

CWDs shall have implemented the new provisions for all new food stamp applications effective February 1, 1987. Implementation and restoration of benefits for continuing cases and any households not currently receiving food stamps which are entitled to restored benefits, shall be made upon request by the household, or no later than at certification or termination. Restored benefits are retroactive to August 22, 1986.

except as specified in Section 63-065.14, where restored benefits are retroactive to August 1, 1986.

Factual Basis:

These regulations were necessary to implement federal mandates and to ensure compliance with federal regulations contained in 7 CFR 272.1(q)(79), Federal Register Vol. 51, No. 163, dated August 22, 1986; and 7 CFR 272.1(q)(76), Federal Register Vol. 51, No. 98, dated May 21, 1986, and Welfare and Institutions Code Section 18004.

2) Section 63-406.1

Specific Purpose:

This revision changed the term "disabled" to "unfit" in the student eligibility provisions. This revision eliminates confusion between unfitness related to student eligibility and disabilities related to general Food Stamp Program eligibility. Also, an editorial correction to reference the appropriate citation was made.

Factual Basis:

This change was made to be consistent with Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.5(a).

3) Section 63-406.121

Specific Purpose

This amendment established verification requirements for "unfitness" if the unfitness is not evident to the CWD. This verification requirement and its corresponding criteria were implemented in order to be consistent with the existing verification requirement in Section 63-407.21.

Factual Basis:

This amendment was necessary for consistency with the existing verification provision in the work registration section and to comply with Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.5(a).

4) Section 63-406.216

Specific Purpose

This amendment added persons who are assigned to or placed in an institution of higher education through a program under JTPA as food stamp eligible students.

Factual Basis:

This revision was necessary to implement the new federal mandate contained in Federal Register Vol. 51, No. 98, dated May 21, 1986, 7 CFR 273.5(b)(1)(vi).

5) Section 63-407.2

Specific Purpose:

This revision changed the term "disability" to "unfitness" in the work registration section in order to eliminate confusion between unfitness for employment and disabilities related to general Food Stamp Program eligibility. Also for editorial purposes, county welfare department has been changed to CWD. In addition, "questionable" has been changed to "not evident" in order to be consistent with the new student eligibility provision.

Factual Basis:

This change was made to comply with Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.7(b)(1)(ii).

6) Section 63-502.2(a)(3)(C)

Specific Purpose:

This revision now specifies that deferred educational loans, grants, etc., provided to a third party on behalf of a household for living expenses shall be treated as money paid directly to the household and not excludable as a vendor payment.

Factual Basis:

This revision was made to comply with Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.9(c)(1)(iv).

7) Section 63-502.2(c)

Specific Purpose:

This revision expanded income exclusions to include tuition and mandatory fees at institutions of post-secondary education, which do not require a high school diploma or equivalency certificate. Prior regulations provided an income exclusion only for persons who are enrolled in an institution of higher education which requires a high school diploma or equivalency certificate. This revision also excludes origination fees and insurance premiums on student loans as income and specifies that portions of nonfederal deferred payment educational loans that the grantor specifically earmarked for education expenses are excludable. Also, examples of mandatory fees were moved from regulations into handbook where they are more appropriately placed. This revision was necessary for placement into handbook. This was a nonsubstantial change because the provision only provides examples of mandatory fees.

Factual Basis:

The revisions made were based on Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.9(c)(3) and (4).

8) Section 63-502.2(d)

Specific Purpose:

This editorial revision added a reference to a related section for clarity.

Factual Basis:

The revision was based on Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.9(c)(4) and Government Code Section 11349(c).

9) Sections 63-502.2(e)(1) and (e)(1)(D)

Specific Purpose:

This revision now specifies that only portions of nonfederal educational reimbursements earmarked by the grantor are excludable. This section was also restructured and renumbered in order to place all excludable reimbursement regulations in the same manual section for consistency and clarity.

Factual Basis:

These amendments were based on Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.9(c)(5)(i)(A) through (E) and Government Code Sections 11349(c) and (d).

10) Sections 63-502.2(e)(2)(A), (B), and (C)

Specific Purpose:

These revisions specify which reimbursements are not excludable and were placed in this section because all nonexcludable reimbursement revisions were included here. In addition, examples of college related expenses were placed into handbook.

Factual Basis:

These amendments were based on Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 273.9(c)(5)(ii)(A), (B), and (C).

c) Identification of Documents Upon Which Department Is Relying

Welfare and Institutions Code Section 18904; Government Code Sections 11349(c) and (d); Federal Register Vol. 51, No. 98, dated May 21, 1986, 7 CFR 272.1(g)(76), 7 CFR 273.5(b)(1)(vi); Federal Register Vol. 51, No. 163, dated August 22, 1986, 7 CFR 272.1(g)(79), 7 CFR 273.5(a); 7 CFR 273.7(b)(1)(ii); 7 CFR 273.9(c)(1)(iv); 7 CFR 273.9(c)(3) and (4); 7 CFR 273.9(c)(5)(i)(A) through (E); and 7 CFR 273.9(c)(5)(ii)(A), (B), and (C).

d) Summary Testimony and Response

There were no oral comments submitted at the February 11, 1987 public hearing. The Department received written comments from Los Angeles, Sacramento, and Santa Clara counties. Those comments and the Department's responses follow numerically:

Section 63-065.14

Comment:

Sacramento County commented that the date on the noticed copy of the regulations is erroneous and that it should restore benefits to August 1, 1986 not August 31, 1986.

Response:

The Department agrees that the date was incorrect. A cover letter with a corrected page for this section was sent to all the CWDs from the Regulations Development Bureau (RDB) on February 25, 1987.

Section 63-406.112

Comment:

Santa Clara County stated that using the term unfit is very degrading to the disabled community. The county has interpreted the intent of the State to be the separation of student eligibility factors from work registration factors. The county further states that disability has three definitions and the term "unfit" resolves only one-third of the problem. The county suggests using three different nondiscriminatory terms for each application (i.e., disabled, incapacitated, inactive, infirm, or debilitated).

Response:

The Department disagrees. The intent is not to separate student eligibility factors from work registration factors but to clarify that the food stamp definition of "disabled" is not applicable to the student eligibility or work registration provisions. This is accomplished by changing the word "disabled" to "unfit."

The definition of "disabled" means that an individual must meet the conditions specified in Section 63-102(e) and therefore be allowed the special deductions and income limits as a "disabled" household. For the purpose of these proposed regulations "unfit" refers to a person who is unemployable. This is federally mandated terminology and cannot be amended.

Section 63-406.216

Comment:

Santa Clara County commented that this section refers only to the Job Training Partnership Act (JTPA) and that there are several other programs which could enroll household members into institutions of higher education (i.e., CIU, TAP, GAIN, etc.). The county suggests that household members enrolled through these other programs be considered eligible students.

Response:

The Department disagrees. JTPA placement in an institution of higher education was the only new category addressed in the federal regulations. While CIU, TAP and GAIN are also federally funded, they are not considered by the federal government as programs in which the enrollees are to be considered eligible students.

Section 63-502.2(a)(3)(C)

Comment:

Santa Clara County commented that this section is composed of one sentence and difficult to read. The county suggested the section be broken up into two sentences for ease of readability. Their solution provided an example of how this could be accomplished.

Response:

The Department disagrees that this provision should be amended. Even though it is one sentence it clearly conveys the intent of the federal regulation that any "deferred educational loans, grants, scholarships, fellowships, veterans' educational benefits and the like" provided for living expenses to a third party on behalf of the individual cannot be excluded from income as a vendor payment. Also, in the example provided, the inclusion of "and training benefits" would add a type of benefit which is not included in the original federal regulation. No change to this regulation is being made.

Section 63-502.2(c)(4)

Comment:

Santa Clara County commented that the section is one sentence and difficult to sort out and should be divided. They questioned whether there is required verification for a "private" loan and asked "If a mom gives her son \$5,000 for educational expenses, and tells her son how to spend it and that he must pay it back after he graduates "would this qualify?"

Response:

The Department agrees that the sentence is too long. The section has been amended for clarity. There is required verification for any loan as defined in Section 63-300.522. This section states "A simple statement signed by both parties which indicates that the payment is a loan and must

be repaid shall be sufficient verification." Provided this requirement is met, the \$5,000 given to the son in the example would be considered a deferred educational loan.

Section 63-502.2(e)(1)

Comment:

Santa Clara County questioned whether the opening phrase is all inclusive or whether the qualifier "but are not limited to," is needed.

Response:

The opening statement is not all inclusive of the list A through E. This section has been amended for clarity.

Section 63-502.2(e)(2)(A)

Comment:

Sacramento County commented that there was no explanation of the unexcludable reimbursements "for portions of Title IV-A benefits for work-related or child care expenses when adjustments have been made for PA payments" in the statement of reasons.

The county also asked for an example of when this type of reimbursement would occur and suggested a handbook section be included with examples.

Response:

The Department believes the federal intent of these provisions which specifies non-excludable reimbursements is clear. This section lists reimbursements which are not excludable and are placed here in compliance with federal regulations.

Section 63-502.2(e)(2)

Comment:

Santa Clara County commented that the wording in this section is excessive and confusing. The county provided new language for Sections 502.2(e)(2)(B) and (C).

Response:

The Department believes the federal intent of these provisions specifying non-excludable reimbursements is clear. The county's suggested language is essentially the same as that proposed and does not increase clarity. Therefore, no change is being made to this section.

Comment:

Santa Clara County asked if veterans' benefits can be non-federal? They also asked if veterans' educational benefits can be added to the section of definitions and requested an example of non-federal veterans' educational benefits.

Response:

Veterans' educational benefits can be both non-federal and federal. One type of non-federal veterans' benefit is provided through Cal-Vet. The Department does not agree that veterans' educational benefits need to be added to the definition section of the regulations as this provision relates only to veterans' benefits paid by federal funds and the CWD is responsible for verifying both the loan type and the funding source.

Comment:

Santa Clara County also stated that the differences between the federal, non-federal, PELL and SEOG exclusions are confusing. In addition, they stated a comparison chart would be helpful in explaining both federal and non-federal exclusions.

Response:

The funding source which determines the type of educational assistance must be independently verified by the CWD. If the CWD verifies that it is not funded by the federal government, it is not federal educational assistance for purposes of this section. Therefore, a comparison chart would not be of any significant benefit in the process.

Comment:

Santa Clara County asked "What is Title IV-A work-related or child care expenses?" Are they GAIN; how might they be adjusted in the PA budget. They also requested an explanation of these benefits and suggested it be included in the section of definitions.

Response:

Title IV-A work-related and child care expenses are those funded with Title IV-A funds such as Employment Search, Community Work Experience, and the Work Supplementation Program. Payments through the GAIN Program may or may not be funded with Title IV-A funds. The only time that Title IV-A reimbursements are counted as income in the Food Stamp Program is when AFDC includes that amount in their computation of the AFDC grant.

The Department does not believe that Title IV-A benefits should be included in the definition section. Title IV-A is a funding source which provides benefits for a variety of programs. Definitions related to funding sources are not typically listed in the definition section of the regulations. As specified in this regulation section, Title IV-A benefits only apply to work-related and child care expenses.

Comment:

Following are five hypothetical questions which Santa Clara County posed and the Department's response to each:

Question:

- (1) If the client received \$200 child care money from GAIN and AFDC allowed a \$160 budget deduction, does food stamps allow the difference of \$40 as a child care budget deduction?

Response:

The question seems to imply that the person received a reimbursement for \$200 child care expenses and was allowed a \$160 earned income disregard for those same expenses. This would constitute a double credit for the same expense and would not be allowed.

Therefore, if a client receives a GAIN payment as a reimbursement for work-related and child care expenses it would not be allowed as a deduction nor would it be counted as income. In your example, both the AFDC and the Food Stamp Program would exclude the \$200 from income and not allow a child care deduction.

Question:

(2) If the client receives any AFDC deduction at all there will be no food stamp deduction?

Response:

For the purposes of this regulation section, if AFDC allows the deduction, the Food Stamp Program must count the amount of the reimbursement used by AFDC as income and allow it as a deduction in the computation of the food stamp benefits.

Question:

(3) If the client receives \$200 from GAIN and the child care is \$150 the difference of \$50 is income to the food stamp budget?

Response:

For this example, if we assume that the \$200 from GAIN is intended for child care and the actual child care cost was only \$150, AFDC and the Food Stamp Program would exclude the \$150 as a reimbursement. The remaining \$50 would be counted as income in both the AFDC and the Food Stamp Programs.

Question:

(4) Are the GAIN payments considered reimbursements, and therefore, exempt from both AFDC and food stamps as income, but, also not allowed as deductions?

Response:

Yes, see response to question #1.

Question:

(5) Are the GAIN payments to be retrospectively budgeted for food stamps?

Response:

All non-excludable income is retrospectively budgeted for purposes of the Food Stamp Program.

Comment:

Los Angeles County stated that USDA should grant states a one year "hold harmless" waiver for quality control errors. Los Angeles County also stated that these proposed amendments are complex, and constitute major changes which will greatly impact quality control negatively in both overissuances and underissuance errors.

Response:

We agree that potential quality control problems might result from these fast-track federal implementation time frames and this is a recurring concern. However, FNS typically does not grant "hold harmless" waivers. We have included our concerns with the implementation of federal regulations in the agenda for an upcoming meeting with FNS.

e) Local Mandate Statement

These regulations do impose a mandate on local agencies but not on school districts. However, the mandate does not require state reimbursement because these regulations will result in a cost mandated by the federal government as defined in Government Code Section 17513.

f) Statement of Potential Cost Impact on Private Persons or Businesses

The Department has determined that the filing of these amendments will result in no significant impact on private persons or businesses.

g) Small Business Impact Statement

The Department has determined that the filing of these amendments will result in no significant impact on small businesses.

h) 15-Day Renotice Statement

No renotice was necessary since no substantive changes were made to the regulations following the public hearing.

UPDATED INFORMATIVE DIGEST

These emergency amendments were adopted to comply with new federal regulations which were effective August 27, 1985. These retroactive provisions allow changes in the income exclusion provisions to include post-secondary educational institutions which do not require a high school diploma or equivalency certificate for admission. Prior regulations allowed exclusions from household income to educational loans for tuition and mandatory school fees only at institutions of post-secondary education which require a high school diploma or equivalency certificate. These new amendments also prohibit an income exclusion for that portion of federal educational reimbursements which provide income assistance beyond that used for tuition and mandatory school fees and for nonfederal educational reimbursements provided for living expenses. Prior regulations did not mandate such exclusions. These emergency regulations also provide that educational loans and grants or other benefits paid to a third party on behalf of the household for living expenses shall not be excluded as vendor payments, but counted as income to the household. Prior regulations were silent on this issue. The regulations also exclude as income loan origination fees and insurance premiums when determining the value of a student loan. These fees were previously counted as income. These regulations also clarify the definition of "disabled." The food stamp definition of disabled was not applicable to the student eligibility or work registration provisions. The word "unfit" was substituted for "disabled" which reflected more accurately the intent of the regulation. Verification requirements were also added to require students claiming mental unfitness, which was not clearly evident to county welfare department (CWD) staff, to provide proof of receipt of temporary or permanent disability benefits issued by private or governmental sources, or a statement from a physician or a licensed or certified psychologist. Prior regulations did not require such proof of mental unfitness. In addition, students placed in an institution of higher education through the Job Training Partnership Act (JTPA) are now included as eligible to participate in the Food Stamp Program. Prior regulations did not include this situation as a criterion for participation in the Food Stamp Program. Finally, sections dealing with Students, and Income, Exclusions and Deductions (Sections 63-406 and 502, respectively) were restructured and renumbered for clarity and ease of use by users of the Food Stamp Manual.

63-065 IMPLEMENTATION OF TREATMENT OF CERTAIN
EDUCATIONAL GRANTS AND LOANS

63-065

- 1 These amended or adopted provisions in Section 63-065.2 shall be implemented as follows:
 - 11 Effective February 1, 1987, the CWDs shall implement the amended or adopted provisions for all new food stamp applications.
 - 12 For continuing cases and any households entitled to restored benefits, these provisions shall be implemented and appropriate restoration of benefits made upon request by the household or no later than at recertification or termination.
 - 13 Benefits shall be restored in accordance with 7 CFR 272.1(g)(79), except as specified in Section 63-065.14.

[7 CFR 272.1(g)(79) states that affected households shall be entitled to restored benefits retroactive to August 22, 1986.]

HANDBOOK

- 14 Persons determined eligible pursuant to Section 63-406.215 are entitled to restored benefits in accordance with 7 CFR 272.1(g)(76).

[7 CFR 272.1(g)(76) states that households shall be provided lost benefits back to August 1, 1986.]

HANDBOOK

- 2 The sections affected by these revisions are as follows: Sections 63-406.1 and .21; 63-407.2(b); and 63-502.2(a), (c), (d), and (e).

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 18904, Welfare and Institutions Code; and 7 CFR 272.1(g)(76) and (g)(79).

•1 Applicability.

- 11 Any person who is age eighteen through fifty-nine; physically and mentally fit; and enrolled at least half time, as defined by the institution, in an institution of higher education (as defined in Section 63-102(i)), shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements of Section 63-406.2.
- 12 Student eligibility requirements shall not apply to persons age 17 or under, persons age 60 or over, or persons physically or mentally unfit, persons attending high school, persons enrolled exclusively in noncredit college courses, such as but not limited to, English as a Second Language (ESL) and General Education Diploma (GED) courses, persons participating in on-the-job training programs, persons enrolled in an institution of higher education less than half time, or to persons enrolled full time in schools and training programs which are not institutions of higher education.
- 121 If mental or physical unfitness is claimed and the unfitness is not evident to the CWD, verification shall be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.5(a).

63-406 STUDENTS (Continued)

63-406

•2 Eligibility Requirements. (Continued)

•21 (Continued)

•216 Be assigned to or placed in an institution of higher education through a program under the Job Training Partnership Act (JTPA).

Authority Cited: Sections 10553, 10554, and 13004, Welfare and Institutions Code.

Reference: 7 CFR 273.5(b)(1)(vi).

.2 Exemptions from Work Registration (Continued)

.21 (Continued)

b. A person physically or mentally unfit for employment. If mental or physical unfitness is claimed and the unfitness is not evident to the CWD, verification shall be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist;

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.7(b)(1)(ii).

63-502 INCOME, EXCLUSIONS, AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. (Continued)

a. (Continued)

(3) (Continued)

(C) Deferred educational loans, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of the household for living expenses such as rent or mortgage, personal clothing or food eaten at home shall be treated as money payable directly to the household and shall not be excluded as a vendor payment.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(1)(iv).

Amend Section 63-502.2(c) to read:

63-502 INCOME, EXCLUSIONS, AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. (Continued)

c. Regardless of their source, educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of post-secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

- (1) For the purpose of this provision, institution of post-secondary education means any public or private educational institution which: (a) meets the definition of institution of higher education as specified in Section 63-102(i), or (b) admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located. The institution must be legally authorized or recognized by the state to provide: (a) an educational program beyond secondary education in the state, or (b) a program of training to prepare students for gainful employment.
- (2) Mandatory fees are those charged to all students or those charged to all students within a certain curriculum.

For example, uniforms, lab fees, or equipment charged to all students to enroll in a chemistry course would be excluded. However, transportation, supplies and textbook expenses are not uniformly charged to all students and, therefore, would not be excluded as mandatory fees.

- (3) Origination fees and insurance premiums on student loans are excludable charges. Only the amount of the loan after these charges have been excluded is to be considered income.
- (4) Portions of nonfederal (state, local, or private) deferred payment educational loans are excludable under this provision only to the extent that the

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lender specifically earmarks portions or all of such loans as provided for educational expenses, such as travel or books, but not for living expenses, such as rent or mortgage, personal clothing, or food eaten at home shall not be excluded.

- d. All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred as specified in Section 63-502.2(c).

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(3) and (4).

Amend Section 63-502.2(e)(1) to read:

63-502 INCOME, EXCLUSIONS, AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. (Continued)

e. Reimbursement for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household. Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are not excluded. To be excluded, these payments must be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses, unless the provider or the household indicates the amount is excessive.

(1) The following ~~excludable~~ reimbursable reimbursements which are not considered to be a gain or benefit to the household include, but are not limited to the following:

- (A) Reimbursements or flat allowances for job- or training-related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site. Reimbursements which are provided over and above the basic wages for these expenses are excluded; however, these expenses, if not reimbursed, are not otherwise deductible. Reimbursements for the travel expenses incurred by migrant workers are also excluded.
- (B) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of their work.
- (C) Medical or dependent care reimbursements.

- (D) Nonfederal reimbursements or allowances to students for specific education expenses, such as travel or books, which are specifically earmarked by the grantor.
- (E) Reimbursements received by households to pay for services provided by Title XX of the Social Security Act.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(5)(i)(A) through (E).

•2 Income Exclusions. (Continued)

e. (Continued)

(2) The following shall not be considered a reimbursement excludable under this provision:

(A) Portions of benefits provided under Title IV-A of the Social Security Act for work-related or child care expenses when adjustments have been made to the PA payments.

(B) Portions of any federal educational grant, scholarship, fellowship, veterans' educational benefit and the like to the extent they provide income assistance beyond that used for tuition and mandatory school fees as set forth in Section 63-502.2(c).

College related expenses such as books, travel, supplies, board, rent, transportation, or equipment, paid for with Pell Grant or Supplemental Educational Opportunity Grant (SEOG) assistance are not excludable under this provision.

(C) Portions of any nonfederal (state, local or private) educational grant, scholarship, fellowship, veterans' educational benefit, and the like that are provided for living expenses, such as food, rent, or clothing.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.9(c)(5)(ii)(A), (B), and (C).